

F228SOK1

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 MARK I. SOKOLOW, et al.,

4 Plaintiffs,

5 v.

04 CV 397 (GBD)

6 PALESTINE LIBERATION  
7 ORGANIZATION, et al.,

8 Defendants.

9 New York, N.Y.  
10 February 2, 2015  
10:00 a.m.

11 Before:

12 HON. GEORGE B. DANIELS,

13 District Judge

14 APPEARANCES

15 ARNOLD & PORTER LLP  
16 Attorneys for Plaintiffs

17 BY: KENT A. YALOWITZ  
18 PHILIP W. HORTON  
TAL MACHNES  
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19 MILLER & CHEVALIER, CHARTERED  
20 Attorneys for Defendants

21 BY: MARK J. ROCHON  
22 LAURA G. FERGUSON  
BRIAN A. HILL  
MICHAEL SATIN  
DAWN E. MURPHY-JOHNSON

23 Also present: RINA NE'EMAN, Hebrew interpreter  
24 SHANTAM ZOHAR, Hebrew interpreter  
25

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(Trial resumed; jury not present)

THE COURT: Good morning. You can be seated.

All of our jurors have just arrived.

Mr. Yalowitz, what do you anticipate for today?

MR. YALOWITZ: So we are going to do a few depositions. I think it will be half an hour, maybe a little less than half an hour. We have cut it down a bit over the weekend. We are reading three and playing one. Mr. Asner is going to be the reader.

Then we have got the Sokolow family who are all here ready to go. After the Sokolow family, we have the Bauer family. They have made it in from Israel. They are here ready to go. They are not in the courtroom yet, but they are within walking distance. I don't think we are going to get through all of that today given the weather and the delays we have had just getting everybody in the courthouse, but if we do, the next witnesses also have arrived and are going to be ready to go.

THE COURT: So you're going to read the deposition testimony first?

MR. YALOWITZ: I think we should so that Mr. Asner can get back to other things he is doing.

THE COURT: Mr. Hill or Mr. Rochon, is there anything we need to address before we get the jury and do that?

MR. ROCHON: There are some things, I think, that we

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1 are going to want to discuss with counsel and the Court, and we  
2 have had some preliminary discussions this morning, but given  
3 that the jury is here, my inclination is to get through some of  
4 this and then have those discussions later today.

5 THE COURT: Let's do that because the jurors have  
6 obviously trekked through this weather.

7 MR. YALOWITZ: The things that we spoke about this  
8 morning are not something that needs to be dealt with today as  
9 far as we are concerned. Let it develop and we will get you  
10 the materials.

11 THE COURT: As long as you can address it and then we  
12 will address it. Let's not let the jury wait.

13 MR. MACHNES: There is one exhibit that we will be  
14 using in the depositions that we would like to offer now. It's  
15 not in evidence yet. It's 1261. The defendants haven't  
16 objected.

17 THE COURT: Do you have any objection?

18 MR. HILL: No objection.

19 THE COURT: Then it will be admitted into evidence.

20 (Plaintiffs' Exhibit 1261 received in evidence)

21 THE COURT: Let's get the jury then.

22 (Continued on next page)

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(Jury present)

THE COURT: You can be seated, ladies and gentlemen.

Good morning, ladies and gentlemen. Thank you for trekking in here through this weather. I want us to keep us ahead of schedule. We are still ahead of schedule so I want to see if we can make significant progress with a number of witnesses this week. So we will continue the examination at this time.

Yes.

MR. YALOWITZ: Ms. Machnes will lead our next phase, your Honor.

THE COURT: Ms. Machnes.

MR. MACHNES: Judge, plaintiffs will now be reading excerpts of deposition transcripts of Hasan Abu-Libdeh, Yasser Shaqbu'a, and Hasan Al-Sheikh. Mr. Marcus Asner, a lawyer from Arnold & Porter, will assist us in reading the answers.

THE COURT: Mr. Asner, you can just sit in the witness box.

MR. ASNER: Thank you, your Honor.

THE COURT: Ladies and gentlemen, this is prior testimony given at a different time by certain witnesses and the parties offer certain parts of that testimony, either in this case or another case.

Yes.

MR. MACHNES: We will begin with the deposition

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1 testimony of Hasan Abu-Libdeh.

2 "Q. Would you state your name please sir?

3 "A. Hasan Abu-Libdeh.

4 "Q. Please tell the court by whom you are employed?

5 "A. The Palestinian Authority, Palestinian National Authority.

6 "Q. What is your position with the Palestinian National  
7 Authority?

8 "A. Minister of National Economy.

9 "Q. Were you involved, Dr. Abu-Libeh, in the negotiations  
10 leading to the Oslo Accords?

11 "A. Yes.

12 "Q. Were you involved in that capacity, through the technical  
13 and advisory committee, or in some other capacity?

14 "A. In this capacity and as the member of the bilateral  
15 negotiating team, negotiating the Madrid/Washington track.

16 "Q. Was the Palestinian National Authority ever made  
17 accountable to the PLO Executive Committee?

18 "A. The PNA being made accountable to the Executive Committee  
19 of the PLO?

20 "Q. Yes.

21 "A. The PNA is accountable in the sense of being committed and  
22 obliged to function in harmony and agreement with the political  
23 framework or the political platform of the PLO and the  
24 strategic policies vis-a-vis the Palestinian people at large.

25 "Q. You have previously testified that the Palestine

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"Abu-Libdeh"

1 Liberation Organization is the sole legitimate representative  
2 of the Palestinian people, is that correct?

3 "A. Correct.

4 "Q. Would you agree that it is superior to the Palestinian  
5 National Authority?

6 "A. I agree.

7 "Q. What was the relationship as of March 24, 2002, between  
8 the Palestinian Legislative Council and the Palestinian  
9 National Council of the Palestine Liberation Organization?

10 "A. The PLO has decided that any Palestinian elected to the  
11 seat of the Palestinian Legislative Council will, as long as  
12 they are members of the Legislative Council, will be  
13 automatically admitted to become members of the Palestinian  
14 National Council.

15 "Q. And the Palestinian National Council is a council of the  
16 Palestinian Liberation Organization, is that correct?

17 "A. That's correct.

18 "Q. On which all the members of the Palestinian Legislative  
19 Council of the PNA sit, is that correct?

20 "A. As long as they are members of the PLC.

21 "Q. The document that's in front of you as Deposition Exhibit  
22 21 and Trial Exhibit 1261, and which was produced to us by your  
23 counsel, is it a document, although commercially produced, that  
24 was generally in use by the Palestinian National Authority  
25 during the year 2002, sir?

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"Abu-Libdeh"

1 "A. This is a document that has earned trust in terms of the  
2 comprehensiveness of what it contains, and it has always been  
3 used as a valuable reference to the various government or  
4 nongovernmental institutions.

5 "Q. To the best of your knowledge, as the designated  
6 representative of the Palestinian Authority, is Deposition  
7 Exhibit 21 and Trial Exhibit 1261, that's in front of you, an  
8 accurate and comprehensive directory relating to the  
9 Palestinian National Authority for the year 2002, subject of  
10 course to any errors that might exist in names or spellings, or  
11 even people who may have changed positions?

12 "A. Well, subject to some minor errors that may result in  
13 typos or people changing positions, or even people or places  
14 not listed, I think this is a fairly comprehensive and accurate  
15 document.

16 "Q. Among the various capacities that Yasser Arafat held,  
17 could you please tell the court, as the official designee of  
18 the Palestinian National Authority, whether or not he was the  
19 commander-in-chief of the Palestinian Security Forces?

20 "A. This is a correct statement.

21 "Q. Did anyone on behalf of the Palestinian National  
22 Authority, and I ask you as its designee, have any oversight  
23 over moneys distributed by the Palestinian Authority to Fatah?

24 "A. The unification of these accounts resulted in moving the  
25 responsibility of disbursing the allocations to the political

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"Abu-Libdeh"

1 parties, from the PLO to the PNA. So the PNA, out of its own  
2 revenues, has allocated -- is allocating on annual basis a line  
3 in the budget for the PLO, where the PLO decides what parts of  
4 that line go to which party, on the basis of the internal  
5 relationships within the PLO."

6 MR. MACHNES: That concludes the deposition testimony  
7 of Mr. Abu-Libdeh.

8 Mr. Asner, we will now begin the testimony of Yasser  
9 Shaqbu'a.

10 "Q. Mr. Shaqbu'a, could you tell us your full name, please.

11 "A. My name is Yasser Musa Hussein Shaqbu'a.

12 "Q. After 1989, or after you got your degree, you returned to  
13 Amman to live?

14 "A. I returned to Amman, and I started to work. And I worked  
15 in the Palestinian National Fund starting from December 1,  
16 1989.

17 "Q. And you have been employed by the Palestine National Fund  
18 since December 1, 1989 until today?

19 "A. Yes, until today.

20 "Q. Who pays your salary?

21 "A. I receive my salary from the fund, the National Fund.

22 "Q. You get a check from the PNF?

23 "A. Yes.

24 "Q. Does the PA -- I'm going to call the PA for Palestine  
25 Authority."



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"Shaqbu'a"

1 "Does the PA have any role in paying your salary?

2 "A. Yes.

3 "Q. OK. What role does the PA play in the paying of your  
4 salary?

5 "A. I want to clarify a certain matter. The PNF was  
6 established in 1964, and the PA came into being in 1993 after  
7 the Oslo agreement. The PA, through the Ministry of Finance,  
8 finances the PNF since 1994.

9 "Q. OK. And the ministry -- oh, sorry.

10 "A. And the PNF specialized in funding PLO activities outside  
11 the Palestinian territories, including the offices and the  
12 embassies across the world. So the span of life of the PNF is  
13 much longer than the span of life of the PA, essentially. This  
14 is what I needed to clarify.

15 "Q. Mr. Shaqbu'a, what is your position in the PNF?

16 "A. I am the head of public accounts, the manager.

17 "Q. The PA's Finance Ministry paid for all PLO activities, all  
18 PLO expenses, inside the West Bank prior to 2009, correct?

19 "A. Yes."

20 MR. MACHNES: That concludes the testimony of Mr.  
21 Shaqbu'a.

22 We will now begin the testimony of Mr. Hussein  
23 Al-Sheikh.

24 "Q. Please state your full name for the record.

25 "A. Hussein Al-Sheikh.

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"Al Sheikh"

1 "Q. How old were you when you became a member of Fatah?

2 "A. 16-and-a-half.

3 "Q. You testified earlier that you were in prison because you  
4 were a member of the PLO. Is that what you said?

5 "A. Fatah is part of the PLO.

6 "Q. Is there such thing a thing as being a member of the PLO  
7 itself?

8 "A. Once you are a member of Fatah, you immediately become a  
9 member of the PLO.

10 "Q. Is it possible to be a member of the PLO without being a  
11 member of the constituent group?

12 "A. Yes, you can be an independent.

13 "Q. Can you tell me, sir, when exactly you were elected as  
14 Secretary of Fatah?

15 "A. In the last months of 1999.

16 "Q. When you became Secretary of Fatah, did you stop being  
17 employed by the Palestinian Authority?

18 "A. Yes. When I was elected, I no longer had any executive  
19 position at the Palestinian Authority.

20 "Q. During the time that you worked as Secretary of Fatah, you  
21 were paid a salary by the General Personnel Council of the PA,  
22 is that correct?

23 "A. Correct.

24 "Q. Why did the Palestinian Authority continue to pay you a  
25 salary while you were working as Secretary of Fatah?

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"Al Sheikh"

1 "A. I was working for the Palestinian Authority until 1999.  
2 When I finished and was elected as the Secretary of Fatah, I  
3 lost my executive position in the PA, so my portfolio was  
4 transferred from my executive position to the GPC.

5 "I was given a limited period. I was given, according  
6 to the law -- I do not remember which law exactly -- a time  
7 period which where I had to choose whether to continue to  
8 fulfill a position in the PA or to stop practicing or having  
9 this position, so that I would not be cut off from any salary,  
10 until I find some other source of income.

11 "Q. How long was the period of time you were given.

12 "A. The problem was that all of these things were mixed up in  
13 the PA at the time.

14 "Q. Do you mean by that that nobody knew how long the period  
15 was that you could continue receiving your salary?

16 "A. I mean by that that in 2000 the Intifada erupted and the  
17 whole area was prevailed with violence, and all the Authority's  
18 buildings were destroyed.

19 "There was no stability in the political Palestinian  
20 organization in general. The Palestinian political system was  
21 no longer stable. Different organizations were not working or  
22 active as they used to be before the Intifada. The working  
23 hours were not regulated anymore. This is what I mean  
24 specifically.

25 "Q. How long did you serve as Secretary of Fatah?

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"Al Sheikh"

1 "A. I took this position from 1999 until 2005.

2 "Q. For what period of time did you continue to receive a  
3 salary from the GPC?

4 "A. During the whole five years, except for one year during  
5 the government of Hamas, following the victory of Hamas in the  
6 elections. I assume about a year I did not have a salary.

7 "Q. I am referring specifically to the period of 2000 to 2004.  
8 Spanning that period of years, can you explain to me what was  
9 the organizational structure of Fatah?

10 "A. We had a general commander, Yasser Arafat. Beneath it the  
11 Central Committee. Beneath it the Revolutionary Council, and  
12 beneath it the leadership in the West Bank and the leadership  
13 of Gaza. And then comes the leadership of Fatah in the  
14 different areas. This is the structure.

15 "Q. How were the members of the Central Committee chosen?

16 "A. Through elections from the general conference of Fatah.

17 "Q. What is the general conference of Fatah?

18 "A. These are representatives of the different frames, unions,  
19 and groups of Fatah internationally and nationally. The last  
20 time that it was convened was in 1989, 20 years ago.

21 "Q. So all of these names that you have told me were in the  
22 Central Committee between 2000 and 2004 had been there since  
23 1989?

24 "A. Correct.

25 "Q. You referred to the Revolutionary Council. How many

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"Al Sheikh"

1 members were there in the Revolutionary Council?

2 "A. 120.

3 "Q. How were those members chosen?

4 "A. Through the general conference as well.

5 "Q. 120 is a lot members. Was there a leadership within the  
6 Revolutionary Council?

7 "A. They meet according to necessity. They assemble every two  
8 months, three months.

9 "Q. Did the Revolutionary Council have a director, president,  
10 head?

11 "A. The leadership was first Yasser Arafat, then Abu Mazen.  
12 But you have to understand that the Central Committee is part  
13 of the Revolutionary Council.

14 "Q. You referred to the leadership in the West Bank and Gaza.  
15 How many individuals were involved in that leadership?

16 "A. In the West Bank, about 70. I do not know how many in  
17 Gaza.

18 "Q. How was membership of that leadership selected?

19 "A. Through elections.

20 "Q. Elections among who?

21 "A. Among members of Fatah in different areas.

22 "Q. Let me back up. Did Fatah have a budget between 2000 and  
23 2004?

24 "A. Of course.

25 "Q. Who was in charge of supervising Fatah's money?

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"Al Sheikh"

1 "A. Ahmed Qurei.

2 "Q. Did Mr. Qurei ray have a title that had something to do  
3 with his function of supervising the money of Fatah?

4 "A. He is a member of the Central Committee in Fatah, and he  
5 is responsible for the finance of Fatah.

6 "Q. How well did you know Yasser Arafat?

7 "A. Good.

8 "Q. Did you consider him a friend, or just somebody you knew  
9 from work, or something else?

10 "A. I considered him a leader and responsible.

11 "Q. In the period of 2000 to 2004, did you meet with  
12 Mr. Arafat?

13 "A. Of course.

14 "Q. How often?

15 "A. Hundreds of times.

16 "Q. Was that for social purposes or business purposes?

17 "A. Things which are connected to Fatah.

18 "Q. Did you receive directives or instructions from Mr. Arafat  
19 during that period?

20 "A. Instructions in what field?

21 "Q. Anything connected to Fatah.

22 "A. I used to receive daily instructions from him.

23 "Q. Did you ever write to Mr. Arafat about anything?

24 "A. Hundreds of letters.

25 "Q. What types of issues would you have written to Mr. Arafat,

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"Al Sheikh"

1 and I'm am talking about 2000 to 2004?

2 "A. I used to write him for giving medical treatment for  
3 families who cannot afford it, for their children. I used to  
4 ask him for assistance and help for students who are in need so  
5 they can go for studies, and also social assistance for  
6 deprived families.

7 "Q. Why would you write those letters to Mr. Arafat and not to  
8 Mr. Qurei who you told us handled the finances?

9 "A. I was not the one who determined where it should be  
10 directed. The one who determined that was Yasser Arafat, who  
11 was the commander. Because Abu Ala does not have any direct  
12 responsibility upon me, Abu Ammar had direct responsibility on  
13 me.

14 "Q. Let me clarify. Is it fair to say that if you felt that a  
15 particular student should receive financial aid, you would have  
16 written to Mr. Arafat asking to give money to this student, and  
17 if Mr. Arafat agreed, he asked Mr. Qurei to disburse the money?

18 "A. Not necessarily from Qurei. The one who determined from  
19 whom to receive the money, that was Yasser Arafat.

20 "Q. Let me break it down. You would ask Mr. Arafat to give  
21 money to Mr. X, and if Mr. Arafat agreed, he would direct  
22 somebody he would pick to disburse the money?

23 "A. Correct.

24 "Q. What we are talking about is the money of Fatah; we are  
25 not talking about the Palestinian Authority or PLO?

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"Al Sheikh"

1 "A. Fatah and PLO are the same because the Fatah and the PLO  
2 budget are with Arafat.

3 "Q. What was Yasser Arafat's role in the PA between 2000 and  
4 2004?

5 "A. Do you mean his status or his capacity in the PA?

6 "Q. Yes.

7 "A. At that time, he was the head of the PA and the PLO.

8 "Q. He was the president and the prime minister?

9 "A. He was the president and the prime minister at the same  
10 time.

11 "Q. As president and prime minister of the Palestinian  
12 Authority, between 2000 and 2004, did Yasser Arafat have any  
13 authority over expenditures of the Palestinian Authority?

14 "A. Of course. He was the president.

15 "Q. You told us, sir, that you would often write letters to  
16 Mr. Arafat asking him to award money from Fatah to particular  
17 people?

18 "A. Correct.

19 "Q. Do you have any idea, sir, how much money was awarded by  
20 Fatah altogether as a result of your requests?

21 "A. I cannot count them.

22 "Q. Can you give it in order of magnitude? Are we talking  
23 about hundreds of dollars, thousands of dollars, hundreds of  
24 thousands of dollars?

25 "A. I would say hundreds of thousands of dollars.



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"Al Sheikh"

1 "Q. Do you have any idea what the annual expenses of Fatah  
2 were during the period of 2000 to 2004?

3 "A. No, it is not part of my expertise.

4 "Q. Did Fatah have a main office?

5 "A. Yes, of course.

6 "Q. Where was the main office of Fatah?

7 "A. The headquarters was where Yasser Arafat was, because he  
8 is the general commander of the movement.

9 "Q. Was that location known as the Mukataa?

10 "A. Correct.

11 "Q. So the Mukataa was where the main office of Fatah was  
12 located?

13 "A. There are others.

14 "Q. There are other what?

15 "A. There are other offices.

16 "Q. Other main offices?

17 "A. For instance, Abu Ala also had a main office as well as  
18 Hakam Balauai also had a main office. Also, Abdallah el Franji  
19 had an office for external relations. The headquarters of the  
20 head command since Abu Ammar was the general commander was at  
21 Mukataa.

22 "Q. Is it correct that the Mukataa was also the main office of  
23 the PA?

24 "A. Of course, since the PA was also Yasser Arafat.

25 "Q. Was the Mukataa also the main office of the PLO?

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"Al Sheikh"

1 "A. Correct, since Yasser Arafat was also the head of the  
2 Executive Committee of the PLO.

3 "Q. We are talking about 2000 to 2004?

4 "A. Correct.

5 "Q. You mentioned that there were some other main offices of  
6 Fatah. Did you say, sir, that there were other main offices of  
7 Fatah?

8 "A. Correct.

9 "Q. Were those other main offices of Fatah also offices of the  
10 PA?

11 "A. No, incorrect.

12 "Q. Which main offices were main offices of Fatah that were  
13 not offices of the PA?

14 "A. All offices of Fatah were not offices of the PA, except  
15 the office of Yasser Arafat.

16 "Q. This is for the Commissioner. This is a Deposition  
17 Exhibit 4, Trial Exhibit 962.

18 "What is this document?

19 "A. I presented this to Yasser Arafat, financial aid for  
20 certain people.

21 "Q. Did you write this document?

22 "A. Yes.

23 "Q. Is all of this document yours or is there a part of it  
24 that was written by somebody else?

25 "A. This is my handwriting, and the handwriting of Yasser

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"Al Sheikh"

1 Arafat.

2 "Q. Is it accurate that the handwriting which is horizontal is  
3 yours and the handwriting which is diagonal is Arafat's?

4 "A. This is an area, where the handwriting or where the date  
5 is stated and the signature, this is of Yasser Arafat."

6 MR. MACHNES: Your Honor, could you direct the jury at  
7 this point that the parties are agreeing that the witness is  
8 indicating that this diagonal handwriting towards the lower  
9 left is Mr. Arafat's?

10 THE COURT: Is that fine?

11 MR. ROCHON: Yes, sir.

12 THE COURT: The record will so reflect.

13 "Q. What did you write in this letter?

14 "A. I requested from Abu Ammar to allocate money for three  
15 people.

16 "Q. Just for the sake of the record, and since it's your  
17 handwriting, could you just read the letter slowly and let the  
18 translator translate?

19 "A. Of course. 'Mr. President, the warrior of combatant,  
20 president of combatant.'

21 "I would like to explain. To assert that mujahid is  
22 not a fighter, if we want to take the linguistic phrase, you  
23 can make Jihad through talking.

24 "Q. But the word is connected to the root Jihad. Can I make a  
25 suggestion. Let the interpreter say what she thinks, you say

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1 what you think, and then we'll ask the witness to clarify and  
2 then we'll have it on the record.

3 "A. I have not finished yet. I would like to clarify.

4 Mujahid does not mean in any way combatant or fighter.

5 Because, according to Islam, mujahid means you can do Jihad  
6 through your words and there is an internal thing within your  
7 soul, the Jihad of the soul. What is the Jihad of the soul?

8 That means do not commit adultery, do not steal, and such  
9 things. Therefore, mujahid does not necessarily mean a  
10 fighter.

11 "Q. Would you agree that mujahid could mean a fighter?

12 "A. Each person can interpret it as he sees fit.

13 "Q. Just finish the letter, please.

14 "A. My brother Abu Ammar, may God protect you and keep you  
15 well. I grant you with salute of homeland and nation. We  
16 request from your Highness to be kind and to allocate a  
17 financial amount of \$2,500 to the brothers -- number one, Raid  
18 el Karmi; second, Ziad Mahmoud Daas; third, Omar Kahaden -- and  
19 we leave this to your decision, your son Hussein Al-Sheikh.  
20 The thing that was offered Yasser Arafat, the Finance Ministry  
21 in Ramallah, the allocation of \$600 would be given to each  
22 person.

23 "Q. Who is Raid el Karmi?

24 "A. Raid el Karmi is a person from the Tulkarm area.

25 "Q. Why did you want to allocate \$2500 to Mr. El Karmi?

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"Al Sheikh"

1 "A. These were the recommendations of the responsible in  
2 charge person of Fatah in Tulkarm area, since I do not know any  
3 of these three people personally. I am given recommendations  
4 from the different Fatah representatives in this area within my  
5 capacity of the Secretary of Fatah. I report this to Yasser  
6 Arafat within the framework of the humanitarian aid. And I  
7 have brought thousands of humanitarian aid to the people.

8 "Q. Who asked you or who recommended to you that you request  
9 \$2500 for Mr. El Karmi?

10 "A. If I am not mistaken, the secretary of the area of  
11 Tulkarm. What period are we talking about? 2001? I cannot  
12 see the date.

13 "Q. 2001.

14 "A. I think that the secretary, maybe it was Dr. Thabet or  
15 Fayyad Kanaan. I am not certain who it was, but I am sure one  
16 of them was the secretary at the time.

17 "Q. Who is Fayyad Kanaan?

18 "A. The secretary of Tulkarm area at that time, maybe. I do  
19 not recall if it was Dr. Thabet or Fayyad Kanaan."

20 MR. MACHNES: Thank you. That concludes the  
21 deposition testimony reading.

22 MR. YALOWITZ: At this time, we would like to play a  
23 videotape of excerpts of the deposition of an individual named  
24 Salam Fayyad.

25 (Videotape played)

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"Al Sheikh"

1 MR. YALOWITZ: We seem to be having some trouble in  
2 the sound.

3 THE COURT: Is it in English?

4 MR. YALOWITZ: It is in English but the accent is  
5 heavy.

6 (Videotape played)

7 (Continued on next page)

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M. Sokolow - direct

1 MR. YALOWITZ: Your Honor, that concludes the excerpts  
2 from the Salam Fayyad deposition.

3 At this time, plaintiffs wish to call as a witness  
4 Mark Sokolow.

5 THE COURT: Sir, would you step up into the witness  
6 box.

7 MARK SOKOLOW,

8 called as a witness by the Plaintiffs,

9 having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. YALOWITZ:

12 Q. Mark, welcome, thank you for coming this morning.

13 Could you tell the jury where you were born and where  
14 you grew up?

15 A. Sure. I was born in Brooklyn, New York, and I lived in  
16 Crown Heights, Brooklyn through fifth grade, then we moved to  
17 Long Island.

18 Q. Where on Long Island did you live?

19 A. I lived in Lawrence Long Island.

20 Q. Now did you attend college?

21 A. Yes, I did.

22 Q. Where did you go?

23 A. I attended Yeshiva College, which is in Washington Heights,  
24 New York.

25 Q. What did you do after college?

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M. Sokolow - direct

1 A. After college I -- education wise?

2 Q. Yeah.

3 A. After college I went to law school, the Benjamin Cardozo  
4 School of Law in the Village.

5 Q. By the way, are you a U.S. citizen?

6 A. Yes, I am.

7 Q. Now tell us a little bit about your family and where you  
8 met were you wife and like that.

9 A. Sure. When we moved to Long Island in sixth grade, I had a  
10 very good friend, his name was David, and his girlfriend turned  
11 out to be my wife. The three of us were good friends sixth,  
12 seventh, eighth through the beginning of high school, and my  
13 wife Rena and I started to go out in high school.

14 Q. Do you have kids?

15 A. Yes, we do, we three daughters.

16 Q. How old are they now?

17 A. Jamie is 25, Lauren is 29, and Elana is 31.

18 Q. Now do you have grandkids?

19 A. We do, we have five grandchildren, two girls and three  
20 boys.

21 Q. After you went to law school, what did you do for work?

22 A. I started working at a small firm downtown called Cole &  
23 Dietz, and then I moved to a few other firms. Do you want the  
24 names of those firms?

25 Q. No, that's okay. Are you still practicing law today?



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M. Sokolow - direct

1 A. Yes.

2 Q. And where do you live today?

3 A. Today I live in Woodmere, Long Island, not far from where I  
4 grew up when we moved as a child.

5 Q. I want to take you back to the year 2001. First of all,  
6 how old were your daughters in say August 2001?

7 A. They were 12, around 12, 16 and 18.

8 Q. And was Elana's birthday in August of 2001?

9 A. Yes, Elana's birthday was August 9, 2001.

10 Q. Was that a significant day in your family besides it being  
11 Elana's 18th birthday?

12 A. It was a very significant day because that was the day of  
13 the bombing of the Sbarro's Pizzeria on Jaffa Road in Jerusalem  
14 that day.

15 Q. Why was that of interest to your family?

16 A. It was of significant interest because during that year,  
17 2001, Elana was graduating high school. Her plan, along with  
18 the plan of almost all of her friends, was to spend a year  
19 after high school in Israel between high school and college,  
20 and she was going to go to school somewhere near Jerusalem.

21 So that year there had been a number of attacks,  
22 terrorist attacks in Israel, and we, like many other parents,  
23 were debating amongst ourselves internally and discussing with  
24 our children whether we would in fact allow her to spend a year  
25 abroad to continue to pursue her studies. And when it came to

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1 that day, August 9th, and that terrible attack, we basically  
2 decided that we were not going to send her.

3 Q. Now how did Elana feel about that?

4 A. She didn't know about our decision. She was in camp. She  
5 came back maybe a week or two afterwards and we told her that  
6 we decided this based on what happened then, among the other  
7 factors. And she was very, very upset, distraught.

8 Q. Did your family have some discussions about that decision  
9 once Elana had returned home?

10 A. We did. We had three awful days of terrible family strife,  
11 so to speak. We tried to convince her that of course we loved  
12 her and wanted the best for her, and we knew how important this  
13 year was for her and how much she had been looking forward to  
14 it. And she said yes, that's right, I just want to go, my  
15 friends are going, I want to go, this is what I have been  
16 waiting to do throughout high school before continuing on with  
17 college. And she just wanted to go. And we tried to convince  
18 our 18-year-old daughter of our position, but as many of you  
19 might know, that's not always successful.

20 Q. So when did Elena wind up heading up to Israel for that  
21 year of study?

22 A. She left the end of August. She prevailed, and we let her  
23 go.

24 Q. And did you begin to make -- did you continue to consider  
25 whether or when to visit her during that year?

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1 A. We did. We had originally thought about taking the whole  
2 family, Rena, myself, and the two girls to visit her. But then  
3 when we saw what was going on, and especially after the  
4 Sbarro's bombing, we said you know what, the four of us would  
5 go to Disney for our winter break and Rena and I would travel  
6 to Israel for a short visit to see Elana sometime in the middle  
7 of the school year.

8 Q. What happened that changed your mind?

9 A. 9/11 happened.

10 Q. Where were you on 9/11?

11 A. On 9/11 I was sitting at my desk on the 38th floor of the  
12 South Tower of the World Trade Center.

13 Q. And take us through how that -- what happened, and we can  
14 talk about how that affected you.

15 A. I was sitting at my desk at I guess about 8:30 or so. I  
16 had come in early that day. I had driven in because I had to  
17 meet a client later on that afternoon, so I drove in earlier to  
18 avoid traffic. And I was sitting at my desk. My window faced  
19 south in the South Tower. And all the sudden I heard this  
20 noise and I didn't know what it was. And I then saw what I  
21 thought was, I don't know, just paper or dust flying by my  
22 window. I had no idea what that was. And not knowing what was  
23 going on, I sat down back at my desk. And then a few moments  
24 later someone came running down the hallway saying Building One  
25 is on fire, let's all evacuate.

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1 Q. So where did you head from there?

2 A. After a couple of moments, those of us who had been on the  
3 floor went to an interior staircase in the building and started  
4 to go down.

5 Q. Where did you wind up after the staircase?

6 A. We wound up in the lobby of the building, and the guards  
7 were ushering everybody to go -- when I got to the lobby of the  
8 building, there's a large glass plate window where you could  
9 see the two buildings, and I went over to that window and saw  
10 that Building One was engulfed in flames. And they ushered  
11 everyone down to the concourse level, which is one level down.

12 Q. Is that where they used to have stores?

13 A. Yeah, the stores, and there was subway entrances down  
14 there. And as soon as I got down to the concourse level I felt  
15 this horrible shuddering of the building, the building just  
16 shook. And of course I had no idea what that was, but as it  
17 turned out that was our building getting hit by the second  
18 plane.

19 Q. Were you able to make your way home that day?

20 A. I was. I ran through the concourse level to a subway exit  
21 that I knew was sort of across the street near what was the  
22 Millennium Hotel at the time. I got out from the building  
23 entrance and looked up and saw both buildings engulfed in  
24 flames and just stood there a few moments not knowing what to  
25 do, not knowing whether I would go back to work that day,

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1 whether I could get my car, which was parked right near the  
2 buildings. And eventually I just ran east to get further away  
3 from the buildings. I made my way to a subway entrance and  
4 took a subway to Penn Station and made the next train back home  
5 to Long Island.

6 Q. What effect did that experience have on your feelings about  
7 heading over to Israel?

8 A. Well, a little later that morning when Elana, who was in  
9 Israel at the time, found out -- everybody found out what  
10 happened, 9/11, she found out I got home safely and I was home.  
11 She called me and said she loved me and was so happy that I was  
12 home. And she said dad, you know, you were so worried about  
13 sending me to Israel during this year and look what happened in  
14 New York. And I kind of realized that she was right, and that  
15 terrorism can occur anywhere.

16 And our original plan was to take everyone and go to  
17 Israel, and it also happened to have been a year -- I mentioned  
18 Jamie was twelve, it was her bat mitzvah year, which is similar  
19 to a bar mitzvah for a girl. And we wanted to celebrate that  
20 with her in a very meaningful, spiritual way, so we decided --  
21 we reconfigured our plans and decided to go on a family trip to  
22 Israel in January to go visit Elena.

23 Q. So let's go to January of '02. Just give us a picture of  
24 your first week in Israel, what you all did.

25 A. Sure. We visited Elana in her school. She still had

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1 school, but she got off from time to time to tour with us. We  
2 were on an organized tour that was organized by the school that  
3 Elana had been in, her high school. So we toured up north and  
4 went down south, went to Eilat, which is a resort town, quite  
5 warm in the winter, and swam, did some diving. Went to the  
6 touristy spots in or about Jerusalem, Tel Aviv, other areas of  
7 the country.

8 Q. What day were you supposed to head home to New York?

9 A. We were supposed to head home on Sunday, January 27th.

10 Q. And just tell us about your plans for that morning of  
11 Sunday, January 27.

12 A. Sure. The first thing I did early that morning was I went  
13 to attend a class in Elana's school that the parents had been  
14 invited to. I did that, came back our hotel, finished our  
15 packing, or most of our packing for the day. And then we  
16 hadn't really done much shopping during this trip. We  
17 generally stayed away from the center of town. And our  
18 daughter Jamie was really interested in a pair of sandals  
19 called Naots, which are Israeli-made sandals, and we never  
20 found a store to get them for her, so we decided -- we heard  
21 there was a very nice shoe store on Jaffa Road. So we decided  
22 we would go there, get her a pair of shoes, by that time Elana  
23 would be done with her classes, we would meet Elana for lunch,  
24 we would say goodbye, and then ultimately make our way to the  
25 airport.

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1 Q. By the way, is Sunday a workday or an off day in Jerusalem?

2 A. Yeah, Sunday in Israel is very different than Sunday here.  
3 Sunday is a workday. It's the first day of the workweek. It's  
4 a very busy, hectic day.

5 Q. What was the scene like when you arrived at that store on  
6 Jaffa Road?

7 A. Jaffa Road is -- think about Fifth Avenue in the 40s or  
8 50s, it's very busy, lots of stores. And we arrived there  
9 somewhere around noontime, and it was a beautiful day, and it  
10 was a very busy shopping street.

11 Q. So did you pick up the shoes?

12 A. We did. We went into the shoe store called Freimann &  
13 Bein, and I bought a pair of shoes, we got a pair of sandals  
14 that Jamie wanted. And we were supposed to meet one of my  
15 cousins right outside the shoe store because she had a package  
16 to give us to -- some documents to bring back to New York for  
17 my father.

18 Q. And so where are you standing at this point?

19 A. So we left the store, and it was the four of us. I think I  
20 was standing next to Lauren and Rena was standing next to Jamie  
21 right outside the shoe store.

22 Q. And what happened?

23 A. We heard and felt this horrific blast in the air. It was  
24 loud, but it was also muffled, and I just knew that second that  
25 a bomb had gone off.

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1 Q. What were you able to see of your family that you had just  
2 been standing with?

3 A. I saw no one. Somehow we got separated. I was on the  
4 floor. I saw debris and dust sort of going past me. I started  
5 hearing people yelling. Couple of moments later I started  
6 hearing sirens go off, and I just knew that a bomb had gone  
7 off.

8 Q. Were you looking for your wife and daughters?

9 A. Yeah. I picked myself up and I was in terrible pain. I  
10 was bleeding around my face and my leg was killing me. And I  
11 stood up and I started yelling in Hebrew: My wife and two  
12 daughters. My wife and two daughters.

13 I was looking for them and just didn't see them.  
14 People came over to me and tried to walk me down the street,  
15 but I just kept yelling: My wife and two daughters, I need to  
16 find them. I said that in my best Hebrew that I could muster  
17 up. They kept trying to bring me to an ambulance that had  
18 come, there was -- an ambulance arrived on the scene, like a  
19 truck kind of ambulance, and they put me in there. I sat down,  
20 but I still had not seen Rena or the girls. And I said in  
21 Hebrew: My wife and two daughters, I have to find them. And I  
22 left the ambulance.

23 Q. Just describe your state of mind as you're getting out of  
24 the ambulance.

25 A. I was just in shock. I couldn't believe this had happened.



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M. Sokolow - direct

1 It was the last day, we thought that our trip had gone really  
2 well, everything that we were concerned about didn't occur. I  
3 remember saying a prayer to God that if I'm alive, hopefully my  
4 family is alive, and I remember thinking if, God forbid, one of  
5 the kids had gotten killed, I would never forgive myself, and I  
6 knew I had to find them.

7 Q. Did you eventually get back in an ambulance and to a  
8 hospital?

9 A. Well, what happened was I -- as I said, I left the  
10 ambulance, was looking for them, and then someone again grabbed  
11 my by the arm, and there's a hospital right around the corner  
12 practically from where we were, so I think he was a physician,  
13 he brought me over there. They were -- really they were trying  
14 to clear the streets because there had been times where there  
15 was an attack and then shortly after that there had been  
16 another attack, and that's what people were concerned about,  
17 was to clear the area. And again I kept saying: I need to  
18 find my wife and two kids. And he said: Don't worry, just  
19 follow me.

20 Q. So when you got to the hospital, did you find anybody?

21 A. I got to the emergency room and it was just chaotic. There  
22 was just -- I think there were dozens of people or more all  
23 over waiting to be treated. They walked me down an aisle of  
24 the ER where there were beds, and I thought I saw out of the  
25 corner of my eye a little girl whose face I could not make out,

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1 it was just so injured and so bloody, but she was wearing  
2 purple panties, and somehow I remembered that -- I remember  
3 thinking that might be Jamie, but I just wasn't sure.

4 Q. Jamie was how old?

5 A. Jamie was twelve.

6 Q. And did it turn out Jamie was at that hospital with you?

7 A. Yeah, it turned out that that was Jamie, because -- well,  
8 it turned out that was Jamie, and I saw her a little while  
9 later because they were wheeling me on a gurney and all the  
10 sudden I saw them wheeling someone else on a gurney and our  
11 paths crossed. And then at that point I did recognize her, and  
12 they knew that I was her father, and they said Jamie has a  
13 severe eye injury, we can't treat that here, we need to take  
14 her to a second hospital, is that okay with you, and she would  
15 get much better treatment there. And I said of course.

16 Q. What about your daughter Lauren and your wife Rena, were  
17 they at that hospital with you?

18 A. They were not. I still did not know where they were or how  
19 they were.

20 Q. And when did you learn where -- how and when did you learn  
21 where Rena and Lauren were?

22 A. As I mentioned, we had been planning to meet my cousin who  
23 was going to bring us some documents. So when this happened,  
24 she had a sense that some of us might have been hurt in the  
25 attack. So she came to the hospital where Jamie and I had been

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1 taken and she found me there. She confirmed to me that Jamie  
2 was going to be taken to a better place to have her eye  
3 treated, and I said yeah, but what about Rena and Lauren, are  
4 they here? Can you look for them for me or find them for me?  
5 She said she would do that and get back to me. And I think it  
6 wasn't until a couple of hours later that she confirmed that  
7 they had been taken yet to a third hospital to be treated.

8 Q. And just describe your feelings when you learned that all  
9 three of them had survived.

10 A. Well, of course, we were thankful to be alive, but I knew  
11 how I felt and I saw how Jamie was and that she had to be taken  
12 to another place for better treatment, and I had no idea how  
13 Rena and Lauren were. So I was, of course, relieved to hear  
14 they were alive but very, very concerned about the extent of  
15 their injuries.

16 Q. Can you just tell us what your injuries were at that time?

17 A. Sure. I had shrapnel wounds. I had a cut on the right  
18 side of my face. I had a burst eardrum. And my leg was in  
19 severe pain from -- I think from the fall to the floor.

20 Q. And how long did you personally stay in the hospital?

21 A. I was released midday the next day on Monday.

22 Q. Where did you go?

23 A. I was brought back to my hotel just so I could change, and  
24 then I went to see Rena and Lauren at their hospital.

25 Q. Describe your feelings as you entered that hospital.

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1 A. Well, you have to move back a drop because I knew that Rena  
2 had to undergo very serious surgery the night before, Sunday  
3 night, so I had an opportunity to speak with her for a couple  
4 of minutes by phone before she had the surgery. But I hadn't  
5 really heard from her after that, so I was very anxious about  
6 seeing her and seeing if she was really going to be okay. And  
7 I was very concerned about Lauren because she didn't have me or  
8 her mother to sort of watch over her. She was the one who  
9 seemed the most nervous and concerned about this trip to begin  
10 with us, so I couldn't imagine what I was going to find myself  
11 with when I found her in the hospital, so I was very anxious  
12 about seeing them and reuniting with them.

13 Q. And take us to the moment of reunification.

14 A. I think I went to see Rena first, and I saw her lying there  
15 in bed with her leg elevated, and we gave each other a little  
16 smile. And I went over and told her she looked great, and I  
17 loved her, and we were going to get through this, and I gave  
18 her a little hug. She wanted to know how Jamie was doing. And  
19 I said the reason why I didn't go to Jamie first was because I  
20 knew that Elana had gone to Jamie and she was sort of being the  
21 parent for the time being.

22 Q. How old was Elana at that time?

23 A. Elana was 18.

24 Q. So then how long was Rena in the hospital?

25 A. Rena was in the hospital a total of about ten days.

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M. Sokolow - direct

1 Q. Did you stay with her the whole time?

2 A. I stayed in Israel the whole time. And I was sort of  
3 shuttling between Jamie and hospital she was at and Rena, and  
4 also dealing with Lauren, who was in the same hospital as Rena,  
5 but needed attention as well from me.

6 Q. What was Lauren's chief complaint and concern?

7 A. Lauren's chief concern was: Get me out of here, I got to  
8 go home. In terms of her physical injuries, she had shrapnel  
9 and burn wounds. She had a burst eardrum as well. And she  
10 just was not doing well overall. She just wanted to get out of  
11 there.

12 Q. Did you in fact get her home early?

13 A. We did. She was released from the hospital, I think it was  
14 Wednesday of that week. And she was 16, but we arranged for  
15 her to just fly home one. Of our very good friends met her and  
16 brought her home to their house where she stayed until we all  
17 returned from Israel.

18 Q. How was it when you left Israel? How was it for you saying  
19 goodbye to Elana?

20 A. It was very, very difficult. Elana basically took a leave  
21 from school for the ten days that she was with us helping take  
22 care of Jamie, helping with Lauren, helping make medical  
23 decisions about Rena. And she had a lot of mixed feelings. On  
24 the one hand, this was right smack in the middle of her year  
25 abroad, the year she had been looking forward to, and on the

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1 other hand we had such an intense time together as a family she  
2 really kind of hated to see us go and be left there alone  
3 again. And we let her make the decision. I encouraged her to  
4 stay because that's what she had planned to do, she wanted to  
5 do. I knew it would be good for her. I assured her we would  
6 have other helpers at home help us get through this. And  
7 ultimately she decided to stay, but it was a difficult goodbye  
8 to leave her there.

9 Q. Tell us about life at home once you were back.

10 A. Life at home wasn't quite the same as it had been. First  
11 of all, we had to deal with getting all of us medical attention  
12 to deal with the various injuries that we had. Rena was  
13 completely impossible. She couldn't -- she basically was lying  
14 on the couch or in bed until they allowed her to put any weight  
15 on her leg, which wasn't for a few months. And Rena is in  
16 charge of our house, so it was very difficult to manage getting  
17 the kids to school, get the kids back into school, back into  
18 their routine, and dealing with the doctors' visits and dealing  
19 with just the responsibilities of running the home.

20 Q. Could you tell us about helping Rena with her wound care.

21 A. Sure. Rena had a lot of wounds both from the compound  
22 fracture that she had of the leg for which she had surgery, as  
23 well as the shrapnel wounds that she sustained. And we  
24 actually thought the wounds were healing very well. They had  
25 nice scabs all over them, and they looked pretty good to us.

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1 And we took her to the orthopedist for a follow-up  
2 visit maybe a week or two or so after we got home, and he said,  
3 you know, you really ought to go to a wound care doctor to have  
4 a look at these wounds. So we did, and again, because we  
5 thought they looked pretty good, and he said well, no, all  
6 these scabs have to come off. And he proceeded to do that, and  
7 it was extraordinarily painful. And we had to go back to him a  
8 few times for I guess more proper wound care treatment and also  
9 for removal of pieces of shrapnel that were lodged in her body.

10 Q. What was it like? Just describe what it's like to have  
11 that kind of procedure done on you.

12 A. It's not done with anesthesia, maybe a little bit of a shot  
13 of Novocain or something, and they literally pull off the  
14 scabs, expose the skin, the raw skin, they put various  
15 ointments or medications on that, they wrapped it up better.  
16 And we went through that process a number of times until it  
17 healed as best as it could heal.

18 Q. I want you to, if you can, just -- you told us a little  
19 bit, but if you could summarize for the jury your injuries at  
20 the time and then what the aftermath was.

21 A. For me?

22 Q. Yeah, for you personally.

23 A. So at the time I had this deep cut on my face, I had  
24 shrapnel wounds, I had the wound to my leg, and I also had the  
25 burst eardrum. The doctors in Israel told me there was a

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1 chance that the eardrum would heal by itself or not.

2 So when I came back to New York I went to see an ear  
3 surgeon about that, and he said that given the extent of the  
4 injury, it was not going to heal by itself, and that I had to  
5 have it surgically fixed, which actually turned out to be the  
6 same case with Lauren. Rena, Lauren and I each had burst  
7 eardrums, and Lauren and I needed surgery in March to repair  
8 those.

9 I also had developed this very loud ringing in my ears  
10 that I heard just constantly and to this day as well. Whenever  
11 I'm in a quiet location, lying in bed, in my office, even here  
12 I hear this ringing in my head. I think they call it tinnitus.  
13 But there's nothing you can do about it except go on and just  
14 plow through.

15 Q. Do you still have shrapnel in your body?

16 A. I do. I have some shrapnel in my neck. I have a piece of  
17 shrapnel very close to the skin in my leg.

18 Q. And could you also just summarize for us the emotional  
19 effect that the bombing has had on you?

20 A. I found I had a very difficult time -- it was very  
21 difficult for me to get back into work, dealing with the house  
22 and the kids and the doctors' appointments and all that. But  
23 even when I did go back to work I found it very difficult to  
24 concentrate. I had been an avid reader of the Times and Wall  
25 Street Journal every day because that's kind of what my



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1 business requires, and I found it difficult to get through  
2 that. And while did I get back to work and continue to do  
3 legal work, it was very hard to concentrate and sort of  
4 multitask the same way that I was used to. I also found that I  
5 was extremely sensitive to loud noises, and at first very  
6 anxious in crowds, especially crowds where you see lots of  
7 people wearing backpacks. That always made me very anxious.

8 Q. Thank you for that summary.

9 We put up on the board a summary of what you just  
10 said. Is that an accurate summary of your recollection and  
11 testimony?

12 A. Yes, it is.

13 Q. I would like to turn next to Rena and just ask you to  
14 summarize Rena's injuries.

15 A. Well, Rena had shrapnel in both legs. She had a compound  
16 open fracture of the leg, which means that the tibia and fibula  
17 were both broken and the bone was sticking out of the leg. She  
18 had surgery on the day of the attack. Just a year ago or so  
19 she had to have a follow-up surgery to remove the screw -- she  
20 had a metal rod placed into her leg, so from the knee to the  
21 ankle, which was attached by screws, metal screws, in the  
22 bottom and near her knee. And the screws started to get loose  
23 and cause problems, so those were removed last year. She lost  
24 feeling and movement in her right leg. Her legs are scarred  
25 and disfigured. The bone in her leg never healed. I think the

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1 tibia did, but the fibula did not.

2 Q. So what's the situation with that bone?

3 A. It's never going to heal. She can walk. She can use the  
4 leg pretty well, but that bone just isn't going to heal, so she  
5 manages without it.

6 Q. Does she also have shrapnel in her body?

7 A. She does. The four of us who were there each have  
8 shrapnel. Some of it is visible and some of it is not.

9 Q. I think earlier you mentioned her eardrum as well.

10 A. She had a burst eardrum as well. And they told her the  
11 same thing, it might heal on its own, it might not. In her  
12 case she was fortunate it did heal on its own. She also has a  
13 fear of crowds and crowded areas. She is very sensitive to  
14 loud noises. She has flashbacks to the attack from time to  
15 time, and also has trouble with the same level of concentration  
16 that she had before the attack.

17 Q. We've put up on the board a summary of what you just said.  
18 Is that an accurate summary of your testimony?

19 A. Yes, it is.

20 Q. Why don't you take us to Lauren.

21 A. Sure. Lauren had shrapnel and burn injuries to her face  
22 and leg. She still has shrapnel in her leg, and there was  
23 actually a bolt that they found in her leg. She also --

24 Q. Bolt, like a piece of hardware?

25 A. Yes. Very often in these attacks they would place ball

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1 bearings or hardware or other metal objects around the bomb so  
2 when the bomb went off it would scatter and injure as many or  
3 kill as many as possible.

4 Lauren also had a burst eardrum, which they told her  
5 it might heal on its own, it might not. In her case, like me,  
6 it did not, and she and I actually had surgery on the same day  
7 in March of 2002. She had some reconstructive surgery on her  
8 face in 2002 to remove some shrapnel and scarring. She had and  
9 has issues with anxiety from the incident, poor sleep and  
10 nightmares from time to time, very sensitive to loud noises,  
11 and also experiences flashbacks.

12 Q. We've put up on the board a summary of the things you just  
13 said about Lauren. Is that an accurate summary of your  
14 testimony?

15 A. It is.

16 Q. Why don't you take us to Jamie. By the way, how old was  
17 Jamie at the time of the attack?

18 A. Jamie was twelve. As I mentioned, Jamie had to be moved to  
19 the second hospital which had a much better, more sophisticated  
20 ophthalmology department that could help treat the injury to  
21 her eye. She had glass shards in her eye, and the glass and  
22 shrapnel injuries resulted in a torn iris. So you looked at  
23 her eye and saw -- the eyes were green, so you would see sort  
24 of holes in it or it was torn. She had scarring on her face.  
25 She had to have cataract surgery a couple of years ago because

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M. Sokolow - direct

1 the -- well, to fix the iris, but also to replace the lens of  
2 her right eye from the injury.

3 Q. How old was she when she had cataract surgery?

4 A. I think the surgery was about four or five years ago, so  
5 she was about 20.

6 Q. Has she been told by her doctors that she has any future  
7 concerns about her eyes?

8 A. Yes, she has to go to a retina specialist and  
9 ophthalmologist twice a year to check her retina and check  
10 for -- she has a high risk for glaucoma, so she has to have  
11 that checked twice a year for that.

12 Q. Has she suffered emotionally from the attack as well?

13 A. Yes, she also has had anxiety both at the time of the  
14 attack and afterwards. She's had sleep issues and she's had  
15 flashbacks that triggered from loud noises.

16 Q. I believe we put up a summary of what you just said. Is  
17 that an accurate summary of your testimony?

18 A. Yes, it is.

19 Q. Let's go to your oldest, Elena. Was she physically present  
20 at the time of the blast?

21 A. No, she was not. She was several miles away.

22 Q. Has the blast and its aftermath affected Elana?

23 A. It has.

24 Q. Based on your observations?

25 A. Yes, based on my observations as her father, it has

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M. Sokolow - direct

1 definitely had an impact on her. She seemed to me to be  
2 depressed, and her mood -- she is a very happy, very strong  
3 person, and she just had gotten down and been depressed at the  
4 time of the attack and over the next ten days.

5 She's had also issues with anxiety. She had a lot of  
6 feelings of loneliness after we left her in Israel and  
7 following. She's also very sensitive to loud noises, not so  
8 much because she was there at the time of the bombing in our  
9 case, but actually during her year in Israel she had been not  
10 too far from other bombing attacks and she knew what happened,  
11 heard the sirens, and it all brings it back. And she also has  
12 sleep issues where she finds it difficult to sleep when she  
13 brings back memories of the attack.

14 Q. We put up on the board a summary of what you just said. Is  
15 that an accurate summary of your testimony?

16 A. Yes, it is.

17 MR. YALOWITZ: Your Honor, plaintiffs would like to  
18 offer in evidence the summary that we've just gone through with  
19 Mr. Sokolow. We would offer it as Plaintiff's 1262.

20 MR. ROCHON: No objection.

21 THE COURT: It will be admitted.

22 (Plaintiff's Exhibit 1262 received in evidence)

23 Q. Mark, I just have one last question for you. Do you feel  
24 that the injuries you suffered were different because you're in  
25 a terror attack?

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M. Sokolow - direct

1 A. I think they're very, very different. Someone  
2 intentionally tried to kill me and my family, and I'll never  
3 forget that. And the emotional impact of that, combined with  
4 the physical injuries, is just devastating.

5 MR. YALOWITZ: I have nothing further on direct, your  
6 Honor.

7 THE COURT: Any questions?

8 MR. ROCHON: No, sir.

9 THE COURT: Thank you, sir, you can step down.

10 Mr. Yalowitz, call plaintiff's next witness.

11 MR. YALOWITZ: Yes, your Honor. Our next witness will  
12 be Elena Sokolow.

13 Ms. Romeo will be conducting the direct examination.  
14 We just, I think, need a moment to retrieve her from the  
15 hallway.

16 ELANA SOKOLOW,

17 called as a witness by the Plaintiffs,

18 having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. ROMEO:

21 Q. Good morning, Elana.

22 A. Good morning.

23 Q. Could you tell the jury where you're from?

24 A. Sure, I'm from Woodmere, New York, which is on Long Island.

25 Q. And could you tell us a little bit about your family

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growing up?

A. Sure. I'm the oldest of three daughters, and we grew up in Woodmere, Long Island. Very happy, stable household, lots of support, lots of family lived nearby in our suburb, lots of friends, and general very happy upbringing.

Q. Where did you go to college?

A. I went to Queens College.

Q. And what do you do for a living now?

A. Right now I'm a physician. I am in a fellowship training program to be an endocrinologist, which I have a couple of months left and then I'll be a full-fledged endocrinologist.

Q. Do you still live on Long Island?

A. I still live on Long Island in a different suburb called West Hempstead with my husband and two sons.

Q. And how old are your sons?

A. One is four and one is seven months old.

Q. Are you a U.S. citizen?

A. Yes.

Q. Did there come a time when you studied abroad after high school?

A. Yes. I went to high school in the suburb of Long Island where I grew up, and I decided to spend a year studying abroad, before I would go on to Queens College, in Jerusalem, Israel. And it was a decision I made along with a lot of my friends from the same high school and from other neighboring high

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E. Sokolow - direct

1 schools. We all decided to pick various schools and spend a  
2 year abroad before starting college.

3 Q. So these other students that you went with, they were also  
4 from New York?

5 A. All from New York, or even from New Jersey, just different  
6 social circles that I had from school, from camp, we all kind  
7 of made this collective decision to go together.

8 Q. And when you were in Israel, were there students from other  
9 places studying there as well?

10 A. Yes, when I went to Israel to a specific school, I was  
11 among American teenagers from all over the country.

12 Q. So how was it in the beginning? Could you tell us a little  
13 bit about that?

14 A. Sure. So it was a tremendous opportunity for me. It was  
15 my first time away from home. I lived in a dorm in the school  
16 where I was in Jerusalem, like I said, lots of other teenagers  
17 my age, people who I knew, people who I met. We spent our time  
18 studying during the day and also spent our time touring and  
19 just taking advantage of being in a foreign country, being away  
20 from home, kind of our first independent experience. A lot of  
21 times we met other American friends from different schools on  
22 Saturday nights and Sunday nights in different cafes in the  
23 downtown area, lots of overnight trips to different parts of  
24 the country, and just really having fun and taking it all in.

25 Q. Let's go to early December 2001. What was it like living



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E. Sokolow - direct

1 in Israel at that time?

2 A. So December 1st was a Saturday night, and I had plans to  
3 meet with some friends who were in a different school nearby.  
4 And it was about six of us, we decided to meet at a cafe on  
5 Hillel Street, which is one of the streets in the downtown  
6 area. And we were having a good time eating dinner, catching  
7 up. And that was a night I will never forget, because in the  
8 middle of our meal we heard a tremendous explosion, which is a  
9 loud boom, and everyone in the cafe kind of perked up, looked  
10 at each other, started to scramble. And before we could even  
11 get our stuff together to leave there was another boom and then  
12 another boom. And so we had quickly realized that there was a  
13 triple explosion going on somewhere near us, and that we had to  
14 get out of that area as soon as possible.

15 And we all just kind of grabbed our stuff, started  
16 running. We had no idea which way to run. I was never in this  
17 kind of situation before. And we just -- we panicked. We ran  
18 with the crowds, strangers grabbed us and said you're running  
19 the wrong way, run this way, this is the way to safety. They  
20 basically directed us to the right way to back get to our  
21 school safely.

22 And that was kind of a turning point in our moods and  
23 in our year abroad, because from that point on it was just a  
24 different atmosphere. I remember being terrified at night  
25 lying in bed in my dorm room because we heard gunshots going on

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E. Sokolow - direct

1 outside and looking out the window at night and seeing big fire  
2 booms and just not knowing if we were safe or what would  
3 happen.

4 (Continued on next page)

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A. Sokolow - direct

1 BY MS. ROMEO:

2 Q. How did that affect what you did on a daily basis after  
3 this experience?

4 A. We were kept in very, you know, tight, sort of controlled  
5 by our school. A lot of times we would make plans to do  
6 something and the principal of the school would say, you know,  
7 the alert, the terror alert level is very high right now, we  
8 really suggest that everybody stay in their rooms tonight and  
9 cancel your plans, or if you're going to go out to the pizza  
10 store, just go to the one down the block, try to stay close by.

11 I remember a lot of times the principal would come  
12 running into our class taking attendance making sure everybody  
13 was accounted for because there was some incident somewhere  
14 downtown and they wanted to make sure that all of their  
15 students were safe.

16 Q. Did you and your friends resume normal activities after  
17 this, going out and seeing things?

18 A. It depended. We definitely changed our behavior in that we  
19 tried to pick somewhat safe areas to congregate. We would go  
20 to each other's schools and see each other instead of going to  
21 a cafe or instead of going on a bus to the downtown area.

22 Q. Did there come a time when your family came to visit you?

23 A. Yes. At the end of January my family decided to come visit  
24 me and basically go on a little trip, take a tour with me and  
25 come to my school and see what my studies were like, what was

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A. Sokolow - direct

1 going on there.

2 Q. That was your parents and your two sisters?

3 A. Correct.

4 Q. Tell us a little bit about that trip. What did you guys do  
5 in the beginning?

6 A. So, it was an organized tour that they came on and that I  
7 joined them. I still went to my classes and things in the  
8 morning and then we usually met up in midday for lunch, in the  
9 afternoon. We did some touring. We went up north. We went  
10 south. Lots of day trips. You know, just kind of typical  
11 vacation kind of stuff.

12 Q. I want to take you now to January 27, the day that your  
13 family was scheduled to return to the U.S.

14 Could you tell us how that day started for you.

15 A. Sure. It was Sunday and my father had wanted to come to  
16 sit in on some of my classes that day. So the plan was that he  
17 would come in the morning, you know, join me in some of my  
18 classes, and then he would join my family, do some shopping,  
19 pick up some last-minute things before the trip was over and I  
20 was going to meet them for lunch in the downtown area.

21 So he did that. He came with me in the morning to a  
22 few of my classes and then he went to go join my family and do  
23 some shopping, and then when my whole morning was over I was  
24 going to join them for lunch.

25 Q. What happened later in the morning?

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A. Sokolow - direct

1 A. So about an hour or two after he left I was still in class,  
2 and it was around 12:30 in the day. As the class was ending,  
3 one of my principals scurried into the classroom and said, I  
4 need to take a headcount because there was an incident in the  
5 downtown Jerusalem area. We need to make sure that all of our  
6 students are safe.

7 This wasn't very surprising because, like I said, she  
8 was doing this on a somewhat regular basis. But to me right  
9 away I was thinking, well, I think my family is there and I  
10 certainly hope that they are OK.

11 So as soon as she took a headcount I ran upstairs to  
12 my dorm room and grabbed my cell phone to try to see if I could  
13 get in touch with them.

14 Q. What was your emotional state at this time?

15 A. I was very, very nervous. Right away it kind of brought  
16 back memories of earlier in the year, on September 11th, when I  
17 was in school and heard from somebody else that the World Trade  
18 Center had been attacked and I remember kind of going through  
19 the same emotions. I know my father worked there. I know he  
20 usually gets in early in the morning. I heard that the Towers  
21 were on fire and I had to kind of get ahold of him, and I was  
22 just dialing on my cell phone trying to reach my father, my  
23 mother, somebody, and those long minutes of not knowing if he  
24 was OK, if he made it through, if he was alive. This kind of  
25 brought me back to that same experience because I was dialing

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A. Sokolow - direct

1 my parents, trying to reach them.

2 I remember sitting on my bed with the cell phone  
3 trying every few minutes, but the lines were down. When  
4 something like this happens a lot of times you can't get in  
5 touch with people because the cell phones are just too tied up.  
6 So I remember thinking to myself, I really hope I am just not  
7 reaching them because they can't access their cell phone  
8 numbers, but I was definitely terrified that they were around  
9 that area, that something had happened to them.

10 Q. So what happened next? What did you do?

11 A. So I am just sitting there in my room. My friend is  
12 sitting next to me. We are both trying to call and call and  
13 call. All of the sudden, the principal of my school showed up  
14 at my dorm room and said to me, Elana, I need to talk to you in  
15 my office about something serious. Right away I knew that this  
16 was probably not going to be good news.

17 I sat down in his office and he said, Elana, there was  
18 an attack in downtown Jerusalem and we just found out that your  
19 mother and your sister were severely injured and we need to  
20 take you to the hospital immediately to see them.

21 Right away I just felt like my heart had started to  
22 bleed. When he said need to take you immediately, I didn't  
23 know if they were on death's door and they had to get me there  
24 so that I could say goodbye to them. I didn't know what I was  
25 going to be dealing with when I would eventually get to the

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A. Sokolow - direct

1 hospital and see them.

2 Q. At that point had you heard anything about your father and  
3 other sister?

4 A. At that point nobody had mentioned my father or my other  
5 sister so my natural instinct was that they were there at the  
6 hospital probably helping out and doing whatever they needed to  
7 do to help my mother and sister.

8 So right away I went into the car with my principal.  
9 I just remember sitting in the back seat with tears just  
10 thinking, I hope they are going to be OK. What am I going to  
11 see when I get there? What am I about to see? And we got to  
12 the emergency room at the hospital in Jerusalem and the scene  
13 there was just chaotic. There were stretchers set up  
14 everywhere. You had to kind of zigzag from stretcher to  
15 stretcher just looking for your loved one, looking for someone  
16 recognizable.

17 The first person who I saw was my sister, Lauren. I  
18 found her on a stretcher. She had looked like she had been  
19 electrocuted. Her hair was all frizzy and kind of standing up.  
20 She was missing some of her eyebrows and her eyes were all wide  
21 open and she said, I think mommy is here somewhere. Let's try  
22 to find her. But she just looked terrified.

23 Then I remember just looking around the emergency  
24 room, looking to see if I could recognize my mother and also  
25 wondering where is my father and other sister. And I finally

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A. Sokolow - direct

1 scurried around and found my mother. She was covered with a  
2 sheet from the neck down and she was just sort of moaning and  
3 groaning and not really making a lot of sense. She said to me,  
4 where is daddy and Jamie? And right away I said, well, what do  
5 you mean? I thought they were here. And it became clear right  
6 away that they were unaccounted for and we didn't know if they  
7 were alive or if they were dead and if they were alive where  
8 were they.

9 Q. At that point, what was your emotional state like?

10 A. I was just in a state of shock. You know, seeing my mother  
11 like that and having to sort of role reverse and be the one to  
12 tell her everything is going to be OK, you know, she kept  
13 asking me, is my leg going to be amputated, is it going to be  
14 taken off, what is going to happen? I had no idea what was  
15 going on, but I kept saying, I'm sure everything is going to be  
16 OK, we are going to find you great doctors, we are going to  
17 make sure everything is OK.

18 I was never in a position like that before, where I  
19 was the one giving comfort to my mother. She was always the  
20 pillar of our house, taking care of us. So that was sort of  
21 terrifying. And it wasn't until maybe an hour or two later  
22 that a social worker was able to contact the other hospitals in  
23 the area and tell us your father is accounted for and your  
24 other sister is accounted for and they are in different  
25 hospitals being treated for various injuries but they are



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A. Sokolow - direct

1     alive.

2     Q.   So what did you do next, when you found that out?

3     A.   I spent most of that day with my mother.  She was injured  
4     very severely and she needed -- we needed to get her a great  
5     surgeon and we had to make sure that the details of her surgery  
6     to try to salvage her leg, to sort of iron out those details.  
7     And so I sort of was forced to rise to that position and meet  
8     with various doctors and various surgeons and I remember  
9     running around to different offices in the hospital just making  
10    sure that she would receive good care and that she would be  
11    taken care of.

12           Once it was nightfall, she was being taken to the  
13    operating room for her surgery.  I then went to the hospital  
14    where Jamie was, my 12-year-old sister, because she was all  
15    alone and that hospital was about a 20-minute drive away from  
16    this hospital.  And I then spent the next few days sort of  
17    being her caretaker.

18           But I remember the initial reaction when seeing her  
19    was that her face was just almost unrecognizable.  She was a  
20    little 12-year-old girl but had various shrapnel wounds and  
21    just thousands of cuts on her face and a patch over her eye.  
22    And at that time was when I sort of became her caretaker and  
23    spent the next few days sleeping with her, going through  
24    procedures with her, and being sort of the mother figure for  
25    her in her hospital.

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A. Sokolow - direct

1 Q. How was Jamie doing during those procedures?

2 A. She was traumatized for a little girl 12 years old in a  
3 foreign country, with doctors speaking a foreign language and  
4 not having either one of her parents around. She was a strong  
5 little girl but she needed all of the support that we could  
6 muster up for her.

7 Q. Was she in a lot of pain?

8 A. She was. I remember going through procedures with her  
9 where they had to physically remove shards of glass from one of  
10 her eyes and they said to her, we can't really give you any  
11 kind of pain medication for this. You're just going to have to  
12 sit and bear the pain. I just remember holding her hand very  
13 tight and saying, we are going to do, we are going to get  
14 through this.

15 Q. How was all this sudden responsibility on you, how were you  
16 feeling?

17 A. I didn't really get a chance to process what was happening  
18 until that first night when they brought me a cot next to  
19 Jamie's bed and said, here, you can sleep in her room with her.  
20 And I remember lying on the cot and the events of the day just  
21 kind of swirling around in my mind, like what just happened.  
22 Yesterday we were a happy family, visiting tourists and having  
23 fun like a vacation and now the world was kind of just upside  
24 down and not knowing what the outcomes were going to be with my  
25 mother. Would my mother ever be able to walk again? Will

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A. Sokolow - direct

1 Jamie be able to see again from her eye? What kind of  
2 emotional trauma we would all have? And just kind of being the  
3 only one there who was not physically injured was a very  
4 overwhelming feeling for being a teenager, sort of growing up  
5 pretty fast.

6 Q. When was your family discharged from the hospital or the  
7 various hospitals they were at?

8 A. So it was kind of a staggered situation. Lauren, the  
9 middle sister, she was discharged after one or two days. My  
10 father was also discharged after one or two days. So he was  
11 able to then come and help out.

12 Jamie was in the hospital for about a week. And then  
13 we all sort of then congregated by my mother's bedside because  
14 she had a full two weeks of recovering in the hospital before  
15 she would be discharged.

16 Q. Did everybody in your family go back to the United States  
17 at the same time?

18 A. No. Lauren was the first one to leave. She was in high  
19 school at the time and she just wanted to go back to her  
20 familiar surroundings and be with her friends and relatives  
21 back home. So she left pretty quickly after the attack.

22 The rest of us stayed for the remainder of my mother's  
23 hospitalization, and then my parents and Jamie flew home  
24 together.

25 Q. Could you tell us about that day when your parents and your

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1 sister left?

2 A. So they were staying in a hotel in Jerusalem when this  
3 happened. So when they were discharged from the hospital, we  
4 all came back to that hotel to collect their belongings and  
5 sort of pack up. I remember being in the hotel lobby just  
6 hugging and wishing -- I was kind of torn whether I should stay  
7 or whether I should go back home with them, would they need my  
8 help. But we had all kind of decided that we had a lot of  
9 support back in New York and that I would do my best to try to  
10 finish out the months that I had left studying abroad.

11 It was a pretty emotional goodbye in the hotel lobby.  
12 I just remember seeing them off in their shuttle to the  
13 airport. Then just kind of being left by myself in that hotel  
14 lobby, not really knowing what to do with myself. I had just  
15 been immersed in such an intense, horrific experience in those  
16 hospitals and sort of dedicated 100 percent of myself to  
17 helping them, you know, pick up the pieces, and then just being  
18 there alone in that hotel lobby not knowing how to move on.

19 I remember going back to the hotel room where we were  
20 and I just remember the first thing I saw was my father's dress  
21 shirt covered in blood, kind of thrown under the vanity in the  
22 bathroom, and it just sort of hit me all over again what we had  
23 just experienced as a family. I sat in that hotel room for  
24 probably a good day just being with myself and sort of trying  
25 to process everything I had just been through.

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1 Q. While your family was recovering in the different  
2 hospitals, were you able to go to school?

3 A. No. While they were in the hospitals, it was sort of my  
4 sole responsibility to be there with them, making sure that  
5 they were getting the right care and sort of juggling between  
6 the three hospitals and that sort of took me out of my daily  
7 routine for those weeks.

8 Q. After they left, how was it going back to school?

9 A. So after they left, you know, I physically moved back into  
10 school, into my dorm, but I spent a lot of time just being in  
11 my dorm room, being alone or being with a friend. It was very  
12 hard to actually go back to class and focus. I had a lot of  
13 trouble concentrating on what I had concentrated on before. I  
14 constantly felt the need to call home and make sure that my  
15 family was doing OK and that things were moving forward and  
16 seeing how they were doing emotionally and physically. Even  
17 once I physically went back into school, into the classes, it  
18 was just never the same from before.

19 Q. When did you go home next?

20 A. I went home in April to visit for the Passover holiday.  
21 The way my house was when I had left for the year was not the  
22 same house that it was when I got back in April. Like I said  
23 before, my mother was always kind of the pillar of our house,  
24 you know, did everything for us, even when we were teenagers --  
25 cooked, cleaned, laundry. Basically took care of us. The

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1 first thing I saw when I got home was my mother in a wheelchair  
2 with one leg up and just sort of like role reversal. Again, us  
3 getting her things, doing things for her.

4 I remember her going to physical therapy sessions and  
5 coming home in tears saying, you know, I don't know if I will  
6 ever be able to walk again or bear weight on this leg again.  
7 They are not sure. And we don't know if it's progressing.  
8 Sort of just being there again for her and saying, things are  
9 going to be OK, it was just a somber mood in the house.

10 Q. When did you go back to Israel?

11 A. I went back after about a week or ten days. I went back to  
12 finish the remainder of the year, until June.

13 Q. How was that, having seen your family a few months after  
14 the bombing?

15 A. It was hard, you know. It was never the same kind of  
16 carefree, normal teenager experience. I always had that in the  
17 back of my head, that there was stuff going on at home and I  
18 felt a little bit of guilt being so far away from home. I felt  
19 guilty if I was having fun, you know. And just very distracted  
20 from what I was supposed to be doing.

21 Q. Could you tell us a little bit about how the bombing still  
22 affects you today?

23 A. Sure. So there is not a day that goes by that I don't  
24 think about what happened or even relive some of those moments.  
25 I think I just have an overall sense of hyper-alertness to

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1 things, or just assuming that things are going to go wrong.

2 Whenever I see my phone ringing and it's my mother or father, I

3 just have this anxiety they are going to tell me something

4 awful has happened. It's just a sort of constant fear that

5 someone has something very bad to tell me.

6 Q. Thank you, Elana.

7 MS. ROMEO: Your Honor, I have no further questions.

8 THE COURT: Cross-examination.

9 MR. ROCHON: No, sir.

10 THE COURT: Can we take a break at this time?

11 MR. ROCHON: Thank you.

12 MS. ROMEO: Yes.

13 THE COURT: We will take a ten-minute break.

14 Don't discuss the case. Keep an open mind, ladies and  
15 gentlemen. We will continue in ten minutes.

16 (Jury exits courtroom)

17 (Continued on next page)

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1 THE COURT: We will take a ten-minute break.

2 MS. WEISER: Do you have a sense of when you're going  
3 to break for lunch?

4 THE COURT: 12:45.

5 MS. WEISER: About 2:00 again for the afternoon?

6 THE COURT: Yes.

7 (Recess)

8 (Continued on next page)

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1 (Jury not present)

2 MS. ROMEO: We are ready to proceed, your Honor.

3 THE COURT: Let's get the jury.

4 (Jury present)

5 MS. ROMEO: Plaintiffs call Lauren Sokolow Mandelstam  
6 to the stand.

7 LAUREN SOKOLOW MANDELSTAM,

8 called as a witness by the plaintiffs,

9 having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. ROMEO:

12 Q. Could you tell us where you are from?

13 A. I am from Long Island.

14 Q. Where in Long Island?

15 A. Woodmere.

16 Q. Could you tell us a little bit about your family growing  
17 up.

18 A. Sure. I have my mother, my father, my two sisters, Elana  
19 and Jamie. Elana is my older sister and Jamie is my younger  
20 sister.

21 Q. Could you tell us just a little bit about what it was like  
22 growing up being the middle child?

23 A. I guess I would say I was the typical middle child, you  
24 know. I think I had a little bit of middle child syndrome.

25 You know, my sisters, we were very, very close, but of course

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Sokolow Mandelstam - direct

1 we had our differences. My older sister and younger sister  
2 would gang up against me, but nothing -- just typical sibling  
3 rivalry.

4 Q. Where did you go to college?

5 A. I went to Queens College.

6 Q. What do you do for a living?

7 A. I am a physician assistant.

8 Q. Where do you live now?

9 A. I live in Queens.

10 Q. Are you married?

11 A. Yes.

12 Q. How about kids, do you have any kids?

13 A. Yes. I have two daughters.

14 Q. How old are they?

15 A. They are five and a half and almost three.

16 Q. Are you a U.S. citizen?

17 A. Yes.

18 Q. I want to take you to the year 2002, January 2002.

19 Could you tell us how old you were at that time.

20 A. I was 16.

21 Q. Did you go visit your sister Elana while she was studying  
22 in Israel?

23 A. Yes.

24 Q. Could you tell us a little bit about that trip.

25 A. Sure. So in January 2002, we went to visit my sister Elana

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1 who was studying there for the year. We went on an organized  
2 program. So we did a lot of traveling around the country. We  
3 went up north, down south. We went swimming. We went hiking.  
4 We did a lot of things with this group.

5 Q. Were you having fun?

6 A. Yes.

7 Q. I want to take you now to January 27, the day that your  
8 family was scheduled to depart to come back to the United  
9 States.

10 Could you tell us what you guys did that morning?

11 A. Yes. So we were scheduled to leave Israel that night. It  
12 was a Sunday night. So that morning we went to the center of  
13 town to do some last-minute shopping before we left. And we  
14 had bought a couple of things and we were waiting right outside  
15 one of the stores. We were waiting for a cousin to come, bring  
16 something, and we were all standing together casually, you  
17 know, having small conversation. Then all of the sudden there  
18 was a loud boom and the first thing I remember, there was a lot  
19 of smoke. I couldn't really see anything but smoke, and I  
20 remember picking myself up from the floor. And then I remember  
21 some stranger grabbed my hand and we just started running  
22 together just to get out of the smoke, out of the chaos.

23 Then they laid me down on the floor and they gave me  
24 something to drink and they told me that the ambulance was  
25 going to be there soon. I remember looking down at myself and

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1 I saw blood and my ankles were killing. I was in a lot of  
2 pain. Then I had no idea where my family was. I was looking  
3 around. I didn't see them. I was petrified. I had no idea  
4 where they were. I kept telling people, I have my mother, my  
5 father, my sister, where are they?

6 Finally the ambulance came and put me on the stretcher  
7 and I kept yelling, where is my family, my family. And not  
8 only did -- I didn't know where my family was. I had no idea  
9 about the extent of my injuries. I had no idea if I was going  
10 to survive. I kept asking, am I going to OK, am I going to  
11 die, what's going to happen? I kept getting -- I kept thinking  
12 if everything is OK with me, I am going to go back home to New  
13 York to live with my cousins because I had no idea where my  
14 family was.

15 Then they brought me to hospital and I just remember  
16 laying there on the stretcher for probably hours, just waiting  
17 and waiting. I guess I was waiting to go in for X-rays and I  
18 don't think there were any rooms available. I was just  
19 waiting. And still I had no idea where my family was. I was  
20 so, so afraid.

21 Finally, Elana came and I think she told me that my  
22 mother was there. So I knew my mother was OK. Again, I had no  
23 idea what the extent of her injuries were or my injuries were.  
24 I also couldn't hear anything, which they kept telling me in  
25 the hospital was just from the blast. It was a loud noise. It

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1 will come back in a few days. But I couldn't hear out of my  
2 left ear.

3 Q. What was your emotional state during this time?

4 A. I was petrified. I didn't know what was going on. I was  
5 16. I didn't know where my family was.

6 Q. You mentioned that you had experienced pain immediately  
7 after the bombing.

8 A. Right.

9 Q. Could you tell us what kind of pain you were experiencing?

10 A. I had pain in my ankles. They felt like they were on fire,  
11 which I found out later I had burns on my ankles. I had some  
12 burns on my face. I also had some shrapnel injuries.

13 Q. While you were waiting in the hospital, had that pain  
14 subsided, intensified, stayed the same?

15 A. It stayed the same.

16 Q. You mentioned that you first saw Elana.

17 A. Right.

18 Q. Did you see your mother eventually?

19 A. I think I remember passing her at some point in the  
20 emergency room. I saw a woman lying there on the stretcher and  
21 I remember thinking, oh, that might be my mother.

22 Q. Could you tell us what happened next, while you were in the  
23 hospital?

24 A. So I finally got into a room, and I was there for a few  
25 days. You know, doctors coming in and out. They had to do

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1 some small procedures, trying to take shrapnel out of my leg.

2 I also had like a huge hole in my right leg. A bolt hit my leg  
3 and then bounced right out. So I had this hole that they had  
4 to treat. Then, again, my hearing. I couldn't hear. Later I  
5 did find out it was not going to come back on its own. I was  
6 going to have to have surgery in order to help me hear.

7 I was traumatized. Every time the doctors would come  
8 in I would say, can I go home now, can I go home. I wanted to  
9 leave the country and go home. I didn't want to wait for my  
10 family. I just wanted to get out of there and go back to my  
11 normal life at home.

12 Q. Did you see much of your family while you were in the  
13 hospital recovering?

14 A. A little bit. I think my mother was down the hallway from  
15 me. I remember once walking over into her room and visiting  
16 her.

17 Q. You mentioned that you had worried about your family's  
18 injuries. As you learned more details about what those  
19 injuries were, how was that making you feel at the time?

20 A. I was scared. I found out that my mother had to have a  
21 six-hour surgery on her leg and they weren't sure if she was  
22 ever going to walk. They thought maybe they would have to  
23 amputate her leg. I didn't know if she was going to be OK.

24 Q. What about Jamie?

25 A. Jamie, she was so little. She was my baby sister. With

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1 her vision. I actually remember seeing Jamie in the hospital.  
2 I couldn't recognize her. Her face was covered in scars. So I  
3 was afraid for her. She was so little.

4 Q. How was your father doing during all of this?

5 A. I guess he was just trying to be strong and be there for  
6 all of us, making sure we were all OK.

7 Q. So when did you leave Israel and come back to the United  
8 States?

9 A. So the incident happened on Sunday and I left Wednesday,  
10 Wednesday afternoon the doctors finally told me I was able to  
11 leave the hospital and I was on the first flight home to New  
12 York.

13 Q. How was saying goodbye to your family?

14 A. I was really just focused on getting out of there. I  
15 really just wanted to go home.

16 Q. So when you got back to the United States -- let's take  
17 your injuries one by one. Could you tell us what medical  
18 treatment you had to receive on your eardrum?

19 A. Yes. So in March, which was two months later, I had  
20 surgery on my left eardrum to repair it.

21 Q. Had you been able to hear at all from that ear --

22 A. No.

23 Q. -- before that surgery?

24 A. I couldn't hear for those two months. I had to wear cotton  
25 balls in my ear because I wasn't allowed to get it wet in the

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Sokolow Mandelstam - direct

1 shower.

2 Q. What about treatment for the various burns and scaring that  
3 you had experienced?

4 A. So I had to keep my ankles wrapped with ointment and gauze  
5 and constantly change the dressings. I had shrapnel in my leg  
6 and the hole that was in my right leg, I had to keep wrapped  
7 up. I had small surgical procedures on my face to try to get  
8 rid of some of the gunpowder and burning that was on my face.

9 Q. How was it coming back to the United States?

10 A. It was hard. It was really hard. I was 16. I was in high  
11 school. I just wanted to fit in with everybody else and here I  
12 was, a girl who was just injured in a suicide bombing and I had  
13 to walk around with a cotton ball in my ear and I couldn't hear  
14 and I came home. I was limping because of the pain in my legs.  
15 I just wanted to be like everybody else and I didn't want to be  
16 known as that girl with the injuries. So it was traumatizing.

17 Q. Was it difficult for you to talk about the attack?

18 A. It was. I didn't talk about it with anybody.

19 Q. After you had the surgery on your ear, how is your hearing  
20 in that ear now?

21 A. It's OK. I wouldn't say it's 100 percent, but it's  
22 definitely much improved.

23 Q. You also mentioned that you had a bolt go into your leg.  
24 Is it still there?

25 A. The hole is not still there but there is a scar, and for a



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Sokolow Mandelstam - direct

1 while I was very embarrassed to show it. I would always wear  
2 leggings and had something that covered it.

3 Q. Does it still give you any pain?

4 A. I do have numbness in that area in my legs.

5 Q. Could you tell us how the terror attack still affects you  
6 today?

7 A. So I am definitely afraid when I hear loud noises. If I  
8 hear a car backfire, I get very jumpy, and being in crowds, I  
9 get very anxious if I am in a big crowd. I feel like I need to  
10 keep moving and not stay still in the same spot. I have  
11 nightmares. I had them much more frequently right after the  
12 event, but I still do get them.

13 Q. How often do you think about the attack?

14 A. Often. Daily. I have scars all over my body that is just  
15 a constant reminder.

16 Q. Have you gone back to Israel since 2002?

17 A. I have gone back. As a matter of fact, I just got back  
18 last week from being there.

19 Q. How was your trip?

20 A. It was good. It was nice being with the family, but I was  
21 definitely on edge.

22 Q. Have you gone back to the site of the bombing since the  
23 attack?

24 A. Yes. I had gone back and I was there last week.

25 Q. Could you tell us about that.

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Sokolow Mandelstam - direct

1 A. So whenever I go back, I go to that spot. There is a  
2 certain blessing that I say, just being thankful that this is  
3 where my life was saved. So I say that blessing and of course  
4 it definitely brings back emotions being there. It's  
5 definitely on edge being there.

6 We were walking towards -- it's a very busy area with  
7 buses and trains. Whenever something goes by I kind of like  
8 veer away and I just have to keep moving. I don't want to  
9 stand still in the same spot for a long period of time.

10 MS. ROMEO: I have no further questions for Lauren.

11 THE COURT: Any cross-examination?

12 MR. ROCHON: No.

13 THE COURT: Thank you.

14 You can step down.

15 (Witness excused)

16 THE COURT: Did you want to start with your witness?

17 MS. ROMEO: Plaintiffs now call Jamie Sokolow Fenster  
18 to the stand.

19 JAMIE SOKOLOW FENSTER,

20 called as a witness by the plaintiffs,

21 having been duly sworn, testified as follows:

22 THE COURT: Could you just state and spell your name  
23 for the court reporter.

24 THE WITNESS: Jamie Sokolow. J-A-M-I-E,  
25 S-O-K-O-L-O-W, F-E-N-S-T-E-R.

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Sokolow Mandelstam - direct

1 DIRECT EXAMINATION

2 BY MS. ROMEO:

3 Q. Good afternoon, Jamie.

4 A. Good afternoon.

5 Q. Could you tell us where you're from.

6 A. I am from Woodmere, New York.

7 (Continued on next page)

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F22TSOK4

Sokolow Fenster - direct

1 THE COURT: Why don't you pull a little closer the  
2 microphone. Thank you.

3 BY MS. ROMEO:

4 Q. Can you tell us a bit about your family while you were  
5 growing up?

6 A. I'm the youngest of three girls, Elana, Lauren and Jamie,  
7 myself. We grew up with our two parents, our mom and dad, very  
8 close-knit family, always got along with each other.

9 Q. How was it being the baby of the family?

10 A. Honestly, I loved it. Everybody was nice to me. They  
11 think I was favored. I would disagree. But I was really close  
12 with Elana, the oldest sister, and just as close with Lauren,  
13 the middle sister. We got along really well.

14 Q. Where did you go to college?

15 A. I went to Queens College.

16 Q. What do you do for a living now?

17 A. I'm a physician assistant at a hospital in Manhattan.

18 Q. And do you still live in Long Island?

19 A. I live in the Bronx with my husband.

20 Q. And do you have children?

21 A. We have one son.

22 Q. How old is?

23 A. He's seven months.

24 Q. Are you a U.S. citizen?

25 A. Yes.

F22TSOK4

Sokolow Fenster - direct

1 Q. How old were you when you went to visit your sister Elana  
2 while she was studying abroad in Israel?

3 A. I was twelve.

4 Q. I want to take you to that trip. Could you tell us how it  
5 was the first few days your family was there?

6 A. Sure. We had a great time. It was my first time ever  
7 being in Israel. Just as a young girl in seventh grade, I was  
8 so exited to be in Israel for the first time, but also to be  
9 seeing my sister who was studying there, I hadn't seen her  
10 since the summer and this was January. We went to all the  
11 sites, the typical tourism sites where people would go for the  
12 first time being in Israel, and we just had a lot of fun.

13 Q. Was there something that you wanted the entire trip?

14 A. There was. Being a twelve year old in seventh grade,  
15 everybody talked about these shoes called Noats. They were  
16 kind of a trademark of Israel. You couldn't go to Israel and  
17 come back without these shoes. So I had my heart set on coming  
18 back with a pair.

19 Q. Now I want to take you to January 27, the day that your  
20 family was scheduled to return to the U.S. Could you tell us  
21 about that day starting with what your plans were for the day  
22 that morning.

23 A. So we knew it was our last day and we were going to go home  
24 that night. We had a late night flight. And we had been there  
25 already for nine days and I still hadn't gotten my shoes. So

F22TSOK4

Sokolow Fenster - direct

1 our plan was to just go into town, the town right by where our  
2 hotel was, quickly go into a shoe store and get me my shoes.  
3 After that we were going to wait for a cousin who was going to  
4 give us a ride to meet up with my sister Elana, who was  
5 studying there. Together we were going to have some lunch and  
6 then pack up and head to the airport.

7 Q. So let's go to when your family went to the shoe store.  
8 Could you tell us what happened?

9 A. So we went into the shoe store. I tried on a couple of  
10 pairs of shoes in different colors and sizes, my father did the  
11 same, and then we ended up both purchasing a pair of shoes.

12 Q. And what happened next?

13 A. So we made our purchases, and then, like I said, our plan  
14 was to wait for a cousin who was going to pick us up outside  
15 the store in her car. We walked outside the store and we were  
16 standing under a concrete roof with concrete pillars. And I  
17 was looking for this person who was giving us the ride up and  
18 down the street.

19 Q. Could you tell us, was it a busy street?

20 A. It was busy, a lot of pedestrians, a lot of people doing  
21 their shopping.

22 Q. And what happened next?

23 A. So we were standing there waiting to be picked up, and all  
24 the sudden I just heard like a loud boom and my world in front  
25 of me went gray, thick, cloudy.

F22TSOK4

Sokolow Fenster - direct

1 Q. Could you see anything?

2 A. I could just see thick smoke. I heard lots of glass  
3 cracking and a lot of like sizzling.

4 Q. What were you thinking?

5 A. Right away I knew what had happened. I knew a bomb went  
6 off. And I kept saying to myself no, I'm twelve years old and  
7 I'm from New York and I'm going to stay alive.

8 Q. Let me know if you want to take a break.

9 A. I'm okay.

10 Q. How did you feel? Were you feeling any pain at the time?

11 A. My whole face felt like it was on fire.

12 Q. If you want to take a break, just let me know.

13 A. I'm okay. So I felt like my face was on fire. I picked up  
14 my hand to touch it and I saw blood, and obviously that  
15 terrified me. I also felt like there was something in my right  
16 eye, like I would try to blink and it felt like it was thick  
17 and debris or glass in there. And my ankles were also -- I saw  
18 they were bleeding, and I was in a lot of pain.

19 Q. Did you see where your family was?

20 A. So at first I was pushed down from the impact, and I got up  
21 and I had to find my whereabouts. So I looked around and  
22 finally saw my mother lying on the street. She was laying with  
23 her legs in front and her and one of her legs was pouring out  
24 blood.

25 Q. Did you talk to her at all or what happened next?

F22TSOK4

Sokolow Fenster - direct

1 A. I don't remember anything specific that we said, I just  
2 know that we were maybe screaming to each other crying.

3 Q. And what happened? Did you get put into an ambulance after  
4 that?

5 A. While we were trying to I guess talk to each other, a woman  
6 pulled me to an ambulance to get me help.

7 Q. Were you by yourself?

8 A. Yeah, at that point I hadn't seen my father or my sister  
9 Lauren, I had just seen my mother, like I said. And they  
10 pulled me into an ambulance by myself with a bunch of people I  
11 guess trying to communicate with me talking really quickly.  
12 They all spoke in Hebrew. They didn't know that I was from New  
13 York. I didn't really speak such fluent Hebrew like they did  
14 so I couldn't really understand what was going on.

15 Q. And your mother wasn't one of the people in the ambulance  
16 with you?

17 A. No, we left her where she was.

18 Q. What was your emotional state at this time in the  
19 ambulance?

20 A. I was really nervous. I hadn't seen my father or sister,  
21 so I didn't know if they made it, if they would get help and my  
22 mother would get help. I was scared because they still didn't  
23 know who I was, what language they needed to speak to me in. I  
24 was really nervous.

25 Q. Were you still in pain?



F22TSOK4

Sokolow Fenster - direct

1 A. Yes.

2 Q. And what happened when you got to the hospital?

3 A. So right away I was taken to the emergency room. I was on  
4 the stretcher, and I remember they just cut off all my  
5 clothing. They wanted to see whether there was any more  
6 damage, anything more to be addressed than what they could see  
7 from the outside.

8 Q. And at this point were you still by yourself?

9 A. Yeah.

10 Q. When did you eventually see the first member of your  
11 family?

12 A. Well, once I guess the emergency doctors made their  
13 assessment that the most serious injury that I had was to my  
14 eye, they made a decision to transfer me to a hospital that was  
15 better equipped to handle that. It happened to be that right  
16 before they were getting ready to transfer me I had seen my  
17 father in a stretcher, they wheeled us right by each other and  
18 we saw each other quickly.

19 Q. How did you feel at that point?

20 A. It was obviously a relief to see my father, to see that he  
21 was alive and relatively okay. And he also told me that he had  
22 already heard that my mother and sister Lauren were taken to a  
23 different -- a third hospital.

24 Q. So were you transferred to the next hospital by yourself?

25 A. Yeah, it was again the same ambulance situation with people

F22TSOK4

Sokolow Fenster - direct

1 just again speaking in Hebrew that I didn't really understand.  
2 And I was by myself.

3 Q. And when did you see Elena?

4 A. So I was taken to that hospital, and I remember I was on  
5 the stretcher I think in a hallway for several hours waiting  
6 for a room to open up for me. At that time Elena made it to my  
7 hospital and that's when I saw her.

8 Q. How was it seeing Elena?

9 A. Also a relief. By then she had more information about the  
10 rest of my family, so it was definitely comforting to have at  
11 least somebody; if not a parent, an older sister.

12 Q. Were you nervous because your parents weren't there?

13 A. Yeah, sure.

14 Q. I want to talk now about the different injuries that you  
15 sustained during the bombing. Could you tell us what those  
16 injuries were?

17 A. Sure. So I had a lot of shrapnel and glass from the  
18 storefront that went into my skin in different places. They  
19 had to be removed. Some of them were removed surgically either  
20 in the hospital at the time in Israel, and some later on once I  
21 was back home. So I had some shrapnel injuries.

22 I also had glass and shrapnel that entered my right  
23 eye from the eyelid and also into my eye and it tore my iris,  
24 and that eventually required surgery in 2008. I had developed  
25 a cataract, a clouding over my lens, from the trauma, and that

F22TSOK4

Sokolow Fenster - direct

1 was also repaired at that same surgery.

2 I also -- I guess when I fell down from the blast I  
3 had chipped my two front teeth. I went to see somebody, like a  
4 dental clinic, while I was in the hospital recovering in  
5 Israel, and they had told me that they couldn't fix my teeth at  
6 the time because I had braces on. And I ended up having my  
7 braces on for another three years, so it wasn't until they came  
8 off that I was able to fix my teeth.

9 Q. You also mentioned you were experiencing a lot of pain in  
10 your ankles?

11 A. Right. I had shrapnel and glass injuries, and those pieces  
12 had to be removed from there and repaired.

13 Q. And by repaired, what did they do?

14 A. They stitched it. They removed the pieces and stitched it  
15 up.

16 Q. Do you have any scarring?

17 A. Yeah, sure. I have some scars, both that were made  
18 surgically to take these things out, and also scars, pieces  
19 that are still in there, my face, my neck, some on my stomach  
20 and my legs.

21 Q. I want to talk a little bit more in detail about the injury  
22 to your eye. Could you take us through the treatment that you  
23 received while you were in the hospital in Israel?

24 A. Sure. So when I got to the second hospital where they were  
25 eye experts, they took me into a procedure room and they had to

F22TSOK4

Sokolow Fenster - direct

1 remove the pieces of the glass directly from my eye. So that  
2 was the initial thing they needed to do. Right after that I  
3 think they placed a patch over my eye which I had to wear I  
4 think for the rest of the week that I was in the hospital.

5 Q. Was the removal of the glass from the right eye painful?

6 A. Definitely.

7 Q. What were you thinking at that time?

8 A. I was wondering how I would ever use this eye to see again,  
9 if what they were doing -- how it could ever just go back to  
10 being a normal eye.

11 Q. And was anybody with you during that procedure?

12 A. I think just my sister Elana.

13 Q. How was it having Elena there for you during this period of  
14 time?

15 A. It was definitely a comfort. My parents weren't able to be  
16 with me, so it was good to have Elena. I guess there was  
17 just -- it was the best we could have done.

18 Q. You also mentioned that you had a lot of abrasions to your  
19 face. When was the first time that you took a look at  
20 yourself?

21 A. So I got to the hospital on Sunday afternoon after the  
22 bomb, and it wasn't until Tuesday morning when I looked in the  
23 mirror. Elena had been with me for a lot of that time from  
24 Sunday to Tuesday, and she encouraged me not to look in the  
25 mirror, being that it was so scratched up. And then I finally

F22TSOK4

Sokolow Fenster - direct

1 looked in the mirror on Tuesday and I was shocked.

2 Q. How did you feel?

3 A. I was scared. Being that I was in seventh grade I was  
4 thinking, you know, how am I going to go back to school looking  
5 like this, are these ever going to heal, what will I ever look  
6 like.

7 Q. When were you discharged from the hospital in Israel?

8 A. I think it was Friday afternoon.

9 Q. Could you tell us about the day that you left to come back  
10 to the U.S. with your family?

11 A. Well, we had to wait a couple of extra days after I got out  
12 of the hospital for my mother to be able to be safely flown  
13 home. So it wasn't until maybe a week and a half after the  
14 event that we were able to leave together.

15 Q. Now that you had more information about the extent of your  
16 family's injuries and how they were recovering, how were you  
17 feeling about the whole situation?

18 A. I mean we're all slowly making improvements and we still  
19 deal with challenges in terms of our recovery in our own ways.

20 Q. Were you worried about your mother?

21 A. I was. Getting home and being a twelve year old, I really  
22 counted on my mom to do all the regular things that a mom needs  
23 to do for a twelve year old, driving me places, doing the  
24 errands, the cooking, the shopping, running the household. So  
25 not having that, it was pretty hard coming back.

F22TSOK4

Sokolow Fenster - direct

1 Q. Was it hard to say goodbye to Elena?

2 A. It was. Like I said, we were really close, and during that  
3 week we got even closer because she was the -- she served as my  
4 parent that week. So it was really hard.

5 Q. And what was it like when you actually got home?

6 A. It was tough to go back to school because I was twelve and  
7 I had this thing that just happened to me that would change my  
8 childhood upbringing forever. And it always set me apart from  
9 my friends, and it was something that they could try to comfort  
10 me about but they never really understood.

11 Q. Were you able to talk about the attack?

12 A. Yeah, I was.

13 Q. And how was your mother doing when you got back to the  
14 United States during her recovery period?

15 A. She required months of therapy, and she wasn't able to be  
16 the fully functioning mother that she was obviously before  
17 this.

18 Q. How did that impact your emotional state while you were  
19 home?

20 A. It was scary because I didn't know -- I didn't really see  
21 what the end would become. I didn't know if she would become  
22 the normal mother again that I didn't have to take care of,  
23 that she could start taking care of me again.

24 Q. And you mentioned that you had a second eye surgery to deal  
25 with the cataract issue in 2008. How is your eye today? Does

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Sokolow Fenster - direct

1 it still give you problems?

2 A. They definitely made it better in that I don't need to wear  
3 a contact in my eye anymore. They repaired that vision. But  
4 they actually posed a challenge to me. I can't really see  
5 close for reading. And just because of the difference in  
6 visions between my left and right eye, I can't really have a  
7 pair of reading glasses made. So it's a challenge to read  
8 things closely. I'm still very sensitive to the light. Even  
9 on like a very hazy day I will notice I'm squinting more than  
10 the normal person because of my light sensitivity.

11 Q. How does the terror attack still affect you today?

12 A. It's something that has changed my upbringing and something  
13 that I'll always have that most other people that I'm with  
14 don't and can't relate to. It's also just made me more on  
15 edge, I guess I would say. Like when I'm in crowds, busy  
16 places, even in New York City, if I'm ever standing with a lot  
17 of people I'm always nervous for what is going to happen. If a  
18 bus drives by, the first thing I think of is is this bus going  
19 to blow up, because that's what happened to me when I was  
20 twelve.

21 Q. And how about loud noises, does that affect you at all?

22 A. It does. People always tell me that I'm always jumping if  
23 anything happens outside, yeah.

24 Q. And how often do you think about the bombing?

25 A. It definitely comes up probably every day.

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1 MS. ROMEO: Your Honor, I have no further questions  
2 for this witness.

3 THE COURT: Any questions?

4 MR. ROCHON: No.

5 THE COURT: Let's take a lunch break at this time.

6 Ladies and gentlemen, don't discuss this case, keep an  
7 open mind. Let's start up at 2:05.

8 (Jury not present)

9 THE COURT: Take a lunch break. I have a conference  
10 call.

11 MR. YALOWITZ: One scheduling thing, your Honor, if we  
12 have a moment.

13 THE COURT: Back on the record?

14 MR. YALOWITZ: No, it doesn't need to be, it's fine.

15 THE COURT: Schedule?

16 MR. YALOWITZ: If we proceed on the pace we're on, I  
17 think we will be done with the families that we had planned to  
18 be done with around 4, 4:30, something like that. The next  
19 family is quite jet lagged, and if it's convenient for your  
20 Honor, if we could start fresh in the morning I think that  
21 would be better.

22 THE COURT: Yes, that's fine.

23 (Continued on next page)  
24  
25



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AFTERNOON SESSION

2:00 p.m.

(Jury not present)

MR. YALOWITZ: I just wanted to give you a report on scheduling.

THE COURT: Sure.

MR. YALOWITZ: Then I think Mr. Rochon may have an application. If he doesn't, then I have one.

I will let him go first if he wants to.

THE COURT: Mr. Rochon.

MR. ROCHON: This concerns the depositions of the two witnesses of the PA that the court agreed that Mr. Yalowitz or one of his team could depose before they testify. I am trying to coordinate that. I have some difficulty. They are both minister level in the government currently. We substituted them for people who left the government.

I have asked Mr. Yalowitz if he would consider doing them by videotape this Thursday as opposed to having them fly here and remain here, especially when our schedule is so uncertain next week because we might only have three days of trial, and I really don't want them sitting in New York, given their duties, for a week at a time.

So my application to the court is to allow them to be deposed by videotape this Thursday. One of them might testify next week, the other would not. The one who might testify next

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1 week is Hanan Ashrawi.

2 I would point out that we have offered this and  
3 consented to this and that's what the record reflects. The  
4 plaintiffs wouldn't normally be in this position. The original  
5 designees hadn't been deposed in connection with this case,  
6 although Salam Fayyad was obviously deposed in connection with  
7 the prior case. We saw part of his deposition today. So I  
8 have asked Mr. Yalowitz, and I think they would prefer to have  
9 them in person here given the time frame.

10 So that's what we have talked about. Once we work  
11 through that, I would like to discuss with the court the nature  
12 of these depositions. They are not de bene esse nor are they  
13 traditional discovery depositions. It's really to find out  
14 what are these people going to say on direct examination so  
15 they can prepare.

16 THE COURT: Have you told them what they are going to  
17 say on direct examination?

18 MR. ROCHON: I am willing to give them essentially the  
19 direct examination.

20 THE COURT: That would be helpful to tell them the  
21 subject matters they are going to address, and then you can  
22 focus their attention if necessary. I am not quite sure what  
23 the problem is and what you say the solution is.

24 MR. ROCHON: I think you had originally said we would  
25 either do it by videotape in the next couple of weeks or in

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1 person the week before they testify. I am asking you to give  
2 us the flexibility to do it by videotape this week so they  
3 don't need to travel, stay here for what could be more than a  
4 week, if they don't get to them next week.

5 THE COURT: When do you intend to have them here and  
6 how long do you intend to have them?

7 MR. ROCHON: Hanan Ashrawi I would intend to have here  
8 over the weekend so she can testify as one of our first  
9 witnesses next week. I am not sure if the plaintiffs' case  
10 will fall over and we will have legal discussions at the close  
11 of the plaintiffs' case. So given we have the three-day  
12 weekend. The other individual would not be coming until the  
13 week of the 16th.

14 THE COURT: Mr. Yalowitz, what do you want to do?

15 MR. YALOWITZ: I want to take him in person. The  
16 option that the court gave was within -- I can't remember what  
17 the exact time frame was, but at the beginning of the trial by  
18 video, or if they didn't want to give it to us at the beginning  
19 of the trial, then the week before they were to go on the  
20 stand.

21 I will tell you, I am very confident, given how  
22 quickly we are moving through, that we will be done on Friday.  
23 So if Ashrawi is going to go next week, she needs to be here  
24 this week to give us a deposition. That was the deal. Not a  
25 video deposition on Lincoln's Birthday after she has testified.

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1 THE COURT: When do you anticipate having her arrive  
2 here?

3 MR. ROCHON: I was going to have her arrive on Sunday.

4 THE COURT: To testify when?

5 MR. ROCHON: At the beginning of the defense case.

6 THE COURT: Monday?

7 MR. ROCHON: If we are to the defense case on Monday,  
8 she would be the first or second witness is what I am  
9 anticipating. Obviously getting a deposition of her, I  
10 understand we can arrange for her by video on Thursday. It  
11 would give the plaintiffs more than they would ever have gotten  
12 in the normal course of things as to her testimony. And to  
13 have her sit in New York for that period of time, she is a  
14 minister level position in the government currently. As you  
15 know, there's a lot of stuff going on over there and she has a  
16 lot of responsibilities.

17 THE COURT: What about your other witness?

18 MR. ROCHON: Shawqi Issa.

19 THE COURT: Are you confident that your case is going  
20 to last more than three days?

21 MR. ROCHON: Yes, I think it will. It may not, but I  
22 think it will.

23 THE COURT: The reason I raise that is because if it  
24 does not, then that witness needs to be here next week.

25 MR. ROCHON: I don't think that witness will be next

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1 week. If my case only goes three days, we won't be calling  
2 him.

3 This all came up on the 12th, I think. You said we  
4 could do it in the next couple of weeks. We are a week  
5 delayed. We could have done it last week. We have all been  
6 busy.

7 THE COURT: Mr. Yalowitz, give me a solution, give a  
8 reasonable solution.

9 MR. YALOWITZ: The reasonable solution is Ashrawi, who  
10 they plan to testify on Monday, needs to be here Friday, and  
11 she can be deposed on Friday. Then she can prepare in New York  
12 over the weekend as she planned and then she can go on Monday.  
13 That seems perfectly reasonable to me.

14 THE COURT: How long is this person going to testify  
15 and how long is the deposition?

16 MR. ROCHON: I think her direct testimony would be  
17 more than an hour. It's not an expert. It's not one of these  
18 day long things. It's an hour of testimony.

19 MR. YALOWITZ: I don't think we are talking about a  
20 long deposition. If they are going to clean her out in an hour  
21 of direct, I am not saying we need an hour, exactly an hour,  
22 but I don't think it's going to be that long. It could be a  
23 little more than an hour. I just don't know. It's not going  
24 to be a seven-hour day.

25 THE COURT: What compels you to want at this point a

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1 deposition of the person in the room with you? Are you just  
2 being contrary?

3 MR. YALOWITZ: No. We have had a lot of trouble  
4 with -- the video depositions to the Middle East, it is a seven  
5 hour time difference. We have had trouble getting people in  
6 from Ramallah to Jerusalem. We have had trouble getting people  
7 from Jerusalem to Ramallah. There's issues about who is in the  
8 room. It's a lot of logistics. It doesn't go as smoothly.

9 THE COURT: When are you going to do this deposition?

10 MR. YALOWITZ: One of my colleagues will do it on  
11 Friday.

12 THE COURT: For how long?

13 MR. YALOWITZ: I don't think it will take more than  
14 two hours. Probably less.

15 Then if they are not going to bring the other guy  
16 until the following week, he can come and give a deposition on  
17 Lincoln's birthday or on Friday, the 13th and we can do the  
18 same thing.

19 I am not looking to find out what his penmanship grade  
20 was in elementary school. I just want to understand what their  
21 testimony is going to be and get some information about it.

22 MR. ROCHON: These two will be in English. They both  
23 have very good English. We don't have that complication.  
24 These two, unlike some other witnesses, don't have travel  
25 issues. They have the ability to travel without the visa

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1 issues that others have. They are both sort of prominent and  
2 able to travel to Jerusalem easily.

3 THE COURT: This is my position, and I don't feel  
4 strongly about it. I don't really care. It's up to you how  
5 you want to handle this. Given our prior discussion, I think  
6 in fairness that if they are insisting at this point on a live  
7 deposition, then you should make the witness available at least  
8 48 hours before you anticipate that the witness is going to  
9 testify for a live deposition. If they don't want to do it by  
10 video, then you pick a day that you're confident that it's  
11 either at least 48 hours before the witness is going to testify  
12 or more, or that you have worked out something else.

13 MR. ROCHON: The only thing I would ask Mr. Yalowitz  
14 is if one of his colleagues could do it over the weekend. The  
15 Friday would be difficult certainly for Shawqi given his  
16 observances.

17 MR. YALOWITZ: We won't have a problem doing it on  
18 Saturday. That's fine.

19 THE COURT: Why don't you see if you can work it out.

20 MR. ROCHON: I am going to make some phone calls when  
21 we are done today to see if I can line it up.

22 THE COURT: If you can work it out otherwise. As I  
23 say, if you give him some detail about what this witness is  
24 going to testify about so they can prepare, if you want to do a  
25 partial deposition or at least start a video deposition to see

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1 if you really want something more, you can do that too.

2 Otherwise, I am going to say they should be entitled to at  
3 least what we had indicated previously.

4 MR. ROCHON: I understand the court's ruling.

5 The nature of that deposition is to find out what they  
6 are going to say on direct.

7 MR. YALOWITZ: I really will not go outside the scope  
8 of what they tell me they are going to testify to, with the  
9 understanding, if they then go outside that scope, we may have  
10 an objection.

11 THE COURT: One of these witnesses has already been  
12 deposed. Not in this case.

13 MR. ROCHON: Not in any case.

14 THE COURT: Neither one?

15 MR. ROCHON: Neither one.

16 THE COURT: I thought one of them was one of the ones  
17 in these other depositions.

18 Did you have another issue, Mr. Yalowitz?

19 MR. YALOWITZ: Just to kind of give you real-time  
20 information as I have it.

21 Given the track record of no cross of these witnesses,  
22 we are moving faster than I thought we were going to. We have  
23 some witnesses who have had some travel problems from Chicago  
24 where there was a big winter storm. So we may kind of end the  
25 day early tomorrow. If we end the day early tomorrow, I feel



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1 like we will not have a problem getting the remainder of our  
2 families on Wednesday, Thursday, Friday.

3 THE COURT: How much of tomorrow would you want to  
4 use. How much can you fill up?

5 MR. YALOWITZ: I think we are probably through lunch,  
6 maybe a little after lunch, something like that.

7 MR. ROCHON: Here is where we come down on this. If  
8 we know they are going to finish this week, then it helps us.  
9 Whether we are short days or long days. What helps us is  
10 having that certainty. We will leave it to the court and Mr.  
11 Yalowitz how to manage that.

12 THE COURT: Do you have equally some certainties that  
13 you can give us.

14 MR. ROCHON: Defense case?

15 THE COURT: Yes.

16 MR. ROCHON: We are getting there. I think it could  
17 be a relatively short defense case. I don't think we will  
18 finish it in three days. I think it will carry over to Monday  
19 the following week.

20 THE COURT: It's not Monday the following week.

21 MR. ROCHON: Tuesday.

22 THE COURT: I am trying to figure out whether or not  
23 we need to be prepared as early as Tuesday, the 17th or  
24 Wednesday, the 18th for summations.

25 MR. ROCHON: I think we are closing that week for

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1 sure. I don't think it will be that Tuesday. I am continuing  
2 to work, obviously, on the defense case and what I think I need  
3 and what I don't. It is a work in progress, but I will keep  
4 you updated. Not a long defense case. Nowhere near as long as  
5 the plaintiffs' case.

6 THE COURT: I will give you some flexibility, Mr.  
7 Yalowitz.

8 MR. YALOWITZ: I very much appreciate it.

9 The defendants this morning disclosed their will call  
10 list and their may call list, and I have a couple of questions  
11 and concerns which I am trying to get some information from  
12 them about it. It may be something we can work out. Past  
13 performance is no guarantee of future results. And if we can't  
14 work it out, we will let you know.

15 THE COURT: Anticipate where you see the gaps in the  
16 testimony and let's address these issues when we have those  
17 gaps so we don't have to have the jury waiting.

18 MR. ROCHON: We will try to get Mr. Yalowitz what he  
19 is looking for. I think we will still have some disagreements,  
20 but we will probably limit some. I would be shocked if we  
21 didn't have some. We don't want to put the court out of work.

22 The plaintiffs are offering 374 with Mr. Bauer. We  
23 had previously objected to that. It's a video. The plaintiffs  
24 have played us again today the portion they wish to use, and we  
25 are not going to be objecting to it.

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1 THE COURT: I don't even remember which one it is.

2 MR. ROCHON: It's not one of the bad ones.

3 There is also the issue of the cropped photograph that  
4 you were discussing, Mr. Yalowitz. I don't know if you need to  
5 raise that with the court.

6 MR. YALOWITZ: I think we are OK. We don't have the  
7 same copy of the cropped photos loaded on our computer.

8 I take it back. Technology has come through.

9 THE COURT: Your technicians have come through.  
10 You still think we might be finished about 4:30 today?

11 MR. YALOWITZ: I am sorry, your Honor?

12 THE COURT: You think we will be finished around 4:30  
13 today?

14 MR. YALOWITZ: Yes.

15 THE COURT: How many witnesses are we going to do  
16 today?

17 MR. YALOWITZ: We have four more witnesses today, one  
18 of whom is very, very short.

19 THE COURT: Let's see if we can get them all in today  
20 at their convenience. It's snowing out so I am sure the jurors  
21 will be happy to go home early.

22 Let's get the jury.

23 (Continued on next page)

24

25

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(Jury present)

THE COURT: Mr. Yalowitz.

MR. YALOWITZ: Your Honor, the plaintiffs next witness is Rena Sokolow.

RENA SOKOLOW,

called as a witness by the plaintiffs,

having been duly sworn, testified as follows:

THE COURT: You can inquire, Mr. Yalowitz.

DIRECT EXAMINATION

BY MR. YALOWITZ:

Q. Rena, where were you born?

A. I was born in Manhattan.

Q. Are you a U.S. citizen?

A. Yes, I am.

Q. Where did you grow up?

A. I moved to Brooklyn when I was three years old and from there I moved to Far Rockaway Queens, where I lived until I got married.

Q. Did you attend college?

A. Yes. I went to Brooklyn College, where I majored in math.

Q. What did you do with your math degree after college?

A. After college I got a job at New York Life Insurance Company, where I did actuarial and pension work. From there I went to a private actuarial consulting firm. And then from there I took a long leave when I had my three daughters, and

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R. Sokolow - direct

1 when my youngest daughter was four years old and in school I  
2 went and I got a job near my home in Rockville Centre, where I  
3 am working now almost 20 years.

4 Q. What kind of work do you do there in Rockville Centre?

5 A. I do pension and actuarial administrative work.

6 Q. Why don't you tell us a little bit about your family.

7 A. OK. So Mark and I met when we were in eighth and ninth  
8 grade in our local school and we started dating then. We dated  
9 through high school and college. We got married after college.

10 Mark went to law school and I worked. And we then had  
11 three daughters, Elana, Lauren and Jamie. We have five  
12 grandchildren, three grandsons and two granddaughters.

13 Q. Could you just describe what would you say your role has  
14 been in the family.

15 A. Well, Mark always had very demanding hours being a lawyer  
16 and basically I was the CEO of the Sokolow household. I took  
17 care of all the children's school, homework, shopping, errands,  
18 cooking, finances of the home. Anything that had to be done I  
19 was home for.

20 Like I said, I took years off from work to raise the  
21 children. Mark would come home very late at night. Most of  
22 the time they would be sleeping. He would see them in the  
23 morning for a few hours before they left for school, and I was  
24 there basically to run the household.

25 Q. So we have heard from Mark and Elana that there was some

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R. Sokolow - direct

1 discussions in August of 2001 about whether she would take that  
2 post high school year abroad.

3 Could you just describe your perspective on those  
4 discussions in August of 2001.

5 A. Well, what typically happens with us is that the year after  
6 you graduate high school you would go study abroad. In our  
7 case it was to go to Israel for the year. And we planned on  
8 sending Elana to Israel for the year. But, you know, there  
9 were a lot of attacks happening and on August 9, which was her  
10 birthday, in 2001, there was a bombing of a pizzeria and we  
11 just felt that maybe we shouldn't send her.

12 Q. Ultimately I think we have heard that she did head out at  
13 the end of August, is that right?

14 A. Right.

15 So we talked about it. Those few days at home were  
16 very stressful because she really wanted to go and we decided  
17 that it was an important thing for her education and for her  
18 upbringing and to experience living abroad and we felt that we  
19 should just not let any of these terror attacks stop us from  
20 having her do what was best for her.

21 Q. Now, we also heard that you had some thoughts about  
22 visiting yourselves with your family.

23 A. Yes.

24 Q. Tell us a little bit about that.

25 A. The plan was that Mark and I would go visit her over

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R. Sokolow - direct

1 Thanksgiving and in January, when the children had their  
2 vacation from school, we would all go as a family to Disney  
3 World. We just didn't feel that comfortable taking the young  
4 kids to visit her at that time.

5 Q. So what changed your thinking on that, Rena?

6 A. Well, 9/11 happened and 9/11 basically changed everything.

7 Q. Just take us through your morning of September 11th.

8 A. On that morning I drove to work. I was in my car driving  
9 my 20-minute drive to Rockville Centre and I heard on the radio  
10 that the first plane had hit the first tower. I knew Mark  
11 worked in Tower 2, so I was very calm. Then a few minutes  
12 later I heard that the plane had hit the second tower. I knew  
13 Mark worked on the 30th floor.

14 I called my mother, who was home watching on the TV,  
15 and I said, Ma, can you tell me approximately where the plane  
16 hit the building? And she wasn't much help at all. So I got  
17 to my office parking lot and I sat in the car and I was just  
18 listening to the radio and trying to call Mark. I couldn't get  
19 through to him.

20 All of the sudden my cell phone rang and it was Elana  
21 calling from Israel asking me, Is daddy OK? She had heard  
22 about 9/11 in Israel and school. I couldn't answer her because  
23 I hadn't heard from Mark yet and I had no idea if he was going  
24 to be OK. So I just said, Look, stay calm and as soon as I  
25 hear anything, I will call you.

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R. Sokolow - direct

1 I sat in my car. I think I was just sitting and  
2 crying and after about 45 minutes, my secretary, who had looked  
3 out the window, saw my car there and she came running down and  
4 she held up a note that Mark had called and said he's fine. So  
5 I went into my office and Mark had left a message that he was  
6 going to try to get the first train out of there.

7 Q. Just tell us your feelings after that about --

8 A. After 9/11 we talked about what our plans were for going to  
9 Israel to visit Elana and we realized that terror can happen  
10 anywhere. We were so thankful that Mark was OK. We thought it  
11 would be much more meaningful for our family to take them to  
12 Israel. And he said, we don't -- we want to live our lives.  
13 We want to do what is important to us. And we just felt that  
14 was the right thing. So we changed our plans and we all  
15 decided to go in January during our vacation and not go to  
16 Disney World.

17 Q. So, Rena, take us to that January 27 morning.

18 A. So it was the last day of our trip. We had been there for  
19 ten days already. Sunday morning. We were supposed to fly  
20 home that night. Jamie, who was 12, had wanted this certain  
21 type of shoe and we had looked in some stores in other cities  
22 in Israel and nobody had her size. So we decided we are going  
23 to go into town to this shoe store and we are going to buy her  
24 these shoes. Elana was going to go to class and meet us after  
25 for lunch.



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R. Sokolow - direct

1           So we walked into town. We went into the shoe store.  
2           We bought a couple of pair of shoes. We were supposed to meet  
3           a cousin right outside the shoe store who was going to give us  
4           some papers to bring home. We walked outside of the shoe store  
5           and the four of us were standing, two of us were next to each  
6           other, and Mark and Lauren were in front of me. I was next to  
7           Jamie. And all of the sudden I heard a loud popping noise and  
8           right away I realized what had happened. And there was a  
9           whoosh, and I started spinning around like I was in a washing  
10          machine. It kept spinning and spinning, and I kept saying to  
11          myself, I can't believe this is happening, I just can't believe  
12          this is happening.

13           The next thing I know I'm on the ground, and I looked  
14          at my leg and it was going in all different directions. Blood  
15          all over the place. The bone sticking out. I thought I was  
16          going to die, and I started saying the prayer that we say when  
17          you think you're in a situation where you're going to die. I  
18          just kept saying it over and over and over again.

19           The next thing I know I looked over to my right and I  
20          saw a severed head of a woman about 3 feet away from me, and I  
21          just kept trying to stay conscious. Then a minute or two later  
22          I looked around. I was trying to see if I could find my  
23          family. And I looked and there was this a little girl looking  
24          down at me and I wasn't sure if it was Jamie. Her face was all  
25          disfigured and bleeding and had cuts and her glasses were all a

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1 mess. I realized that it was Jamie and I just didn't want her  
2 to panic and I said, It will be OK, it will be OK. Meanwhile,  
3 my leg was just bleeding profusely.

4 The next thing I know this woman shows up and she  
5 grabbed a man's scarf and a man's shirt and she started tying  
6 up my leg. I think she probably saved my life. I don't know  
7 what made her think to do that. The next thing I remember --  
8 Q. I just want to stay on that moment for a minute. Just tell  
9 us, first of all, were you in pain?

10 A. Oh, God. The most excruciating pain. I can't even  
11 describe it. I mean it was horrible, just horrible. I had to  
12 fight from losing consciousness.

13 Q. What were you thinking about as you sat there?

14 A. I was thinking about -- first I was thinking about I'm  
15 going to die and I was thinking about where is my family. I  
16 didn't know if Mark was alive. I didn't know if Lauren was  
17 alive. I knew Jamie was alive, but she looked like she was in  
18 bad shape. I was just in so much pain. I didn't know what to  
19 do.

20 Q. I just want to show you a photograph of the screen for a  
21 moment. This is Exhibit 1134.

22 Is that the store?

23 A. Yeah. I was sitting right by that little ledge there,  
24 right outside the store.

25 Q. How long was it while you were there waiting for an

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R. Sokolow - direct

1 ambulance?

2 A. It's hard to say. It felt like it was a really long time,  
3 but I really couldn't say. I just remember being carried on a  
4 stretcher and put into an ambulance and people yelling at me in  
5 Hebrew, what's your passport number, what's your passport  
6 number? Nobody knows their passport number. I couldn't tell  
7 them. I just kept saying please give me something for the  
8 pain. And they just kept ignoring me, and I kept looking for  
9 Mark.

10 There was another man in the ambulance with me, and I  
11 wasn't wearing my lenses. They made me take them out. And I  
12 kept thinking maybe it was Mark and in Hebrew, broken Hebrew, I  
13 kept saying, That could be my husband. Is that my husband?  
14 They just kept saying, no, no. What's your passport number?  
15 It was chaotic.

16 Q. Tell us about the hospital.

17 A. We got to the hospital. I just remember hearing a lot of  
18 loud noises and people running and craziness in the emergency  
19 room. I just kept saying, I need something for the pain, and  
20 they just kept ignoring me. And they were examining me and I  
21 was asking them if I'm going to lose my leg and they wouldn't  
22 tell me. So of course I thought I was losing my leg.

23 They just -- it was like they didn't understand  
24 English and I didn't understand them, and I was just lying  
25 around waiting to find out what had happened to Mark or Lauren.

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R. Sokolow - direct

1 It felt like hours until I knew what had happened, that they  
2 were taken to different hospitals and that they were alive.

3 Q. Tell us about your surgery.

4 A. Well, my surgery -- this happened around 12:00 in the  
5 afternoon. My surgery didn't happen until 9:00 that evening  
6 because we were waiting for a certain doctor who was supposed  
7 to be the good orthopedic surgeon to become available.

8 So right before my surgery they actually let Mark from  
9 his hospital call me. We spoke and he wished me good luck and  
10 he said he loved me and he was pulling for me. Right when they  
11 brought me into the operating room they were going to give me  
12 something to put me to sleep, but I had been sick during the  
13 trip. I had this terrible upper respiratory cold, infection,  
14 and they decided it would be too dangerous to put me asleep for  
15 the surgery. So they gave me an epidural.

16 Q. So you were awake?

17 A. I was awake. For three hours I heard electric saws and  
18 drilling noises and doctors mumbling in Hebrew and I remember  
19 being so cold and I remember asking them, am I going to lose my  
20 leg, and they would not answer me.

21 Q. Take us to the next day when you got out of surgery and  
22 woke up.

23 A. The next morning I woke up, and I was on a lot of morphine,  
24 and there were people floating in and out of my room with  
25 baskets and flowers. I thought I died and I was in heaven.

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R. Sokolow - direct

1 Then I finally found out it was some Jewish holiday. It was  
2 like the holiday of trees and plants. In Israel it's a very  
3 important holiday, and people kept coming in with baskets, and  
4 it was the morphine. I was not dead.

5 Mark came to see me and that was a really nice  
6 reunion. He had a lot of big scratches and cuts and shrapnel  
7 and scars all over his face, but otherwise he seemed OK. He  
8 was limping a little bit. I was very weak. I had lost a lot  
9 of blood. And the first time I got out of bed to go to the  
10 bathroom I fainted. So they wanted me to stay put for a while,  
11 and I ended up staying in the hospital for about nine days till  
12 I could go home.

13 Q. How was it for you leaving Elana in Israel?

14 A. Leaving Elana was really, really hard, because I knew that  
15 she wasn't OK after what she went through trying to take care  
16 of all of us. I knew that it was going to be very hard for her  
17 to go back to school. She was having trouble concentrating. I  
18 knew she would want to be with the family. But I also knew  
19 that it was important for her to stay and to try to get back to  
20 a semi-normal schedule with her classes and with her friends.  
21 So we were strong. We tried to make her feel like it was the  
22 best thing for her to just stay and not come home with us.

23 Q. Why don't you take us to your recovery in the weeks and  
24 months after you returned home to New York.

25 First of all, just tell us about your emotional state

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R. Sokolow - direct

1 in those early days.

2 A. Well, it was very difficult because I saw what my kids were  
3 going through, and Mark and I tried to not deal with my  
4 problems. I tried to be strong for them and I tried to make  
5 everything seem as normal as possible, but it was very  
6 frustrating because I couldn't run the household like I liked  
7 to and like I was used to and everyone had to do things for me  
8 because I couldn't put any weight on my foot. I had to use a  
9 walker at the beginning for about two to three months.

10 I was busy running to doctors and to physical therapy  
11 and giving myself injections in my stomach so I wouldn't get a  
12 blood clot. On the other hand, I wanted to try to get the kids  
13 back into their normal school routine and try to make things  
14 seem like normal again.

15 Q. Did you feel you were the parent you wanted to be?

16 A. No. Not at all.

17 Q. How did that make you feel?

18 A. It was terrible. I just remember one day going for a walk  
19 on the avenue and hobbling along with my walker and I just had  
20 like a breakdown and I started crying in the middle of the  
21 street because I couldn't do what I needed to do for my family.

22 I was supposed to host the holiday that year,  
23 Passover, which I do every year, for 20 to 25 people and I just  
24 couldn't do it, and I had to tell my extended family that I'm  
25 sorry but I can't do it this year. I'm just busy running to

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doctors and therapy and I couldn't do it.

Q. Were you able to drive?

A. No. Not until, I think it was four months till I could drive, and that was using, with the crutches.

Q. Were you able to walk on your own at first?

A. No.

Q. Tell us a little bit about the physical therapy you went through.

A. I had to go three times a week to physical therapy. So someone always had to come pick me up and take me and bring me home. At the beginning I really wasn't doing much therapy because I couldn't put any weight on the leg, because the bones, there were several bones that were broken, and it was kind of like a vicious circle because the bones don't really heal until you can put weight on them. So I had to do very gradual. Like after about eight weeks they let me put 20 pounds of weight and then after another few weeks I could put another 20 pounds of weight. It was a very long recovery.

Q. What was the physical therapy itself like?

A. It was painful. They would give me exercises to do there and at home. I did as much as I could tolerate, but obviously I wanted to get better so I tried to do it as much as I could.

Q. Did you suffer shrapnel wounds during the bombing?

A. A lot of shrapnel wounds.

Q. What was the wound care like?

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R. Sokolow - direct

1 A. Well, I never even heard of wound care, but the first day I  
2 went to the orthopedist at home he looked at all of my wounds  
3 on both legs, and I thought they were doing so well. They were  
4 all scabbed over and I was so happy they were healing. And the  
5 doctor said you need to go to a wound care specialist because  
6 these have not healed from underneath.

7 I will never forget that visit to the wound care  
8 doctor. I went with Mark and my sister-in-law. And he looked  
9 at them and he said, I am going to have to take these scabs off  
10 because they didn't heal from underneath, and he just started  
11 yanking them off and it was so painful.

12 At that visit I also, I was having a problem. The  
13 only way I could get up and down the stairs in my house was  
14 sitting down, like that. And every time I would do it, it was  
15 very uncomfortable. At that visit I showed my behind to the  
16 nurse and she pulled out a big piece of shrapnel that was just  
17 half in and half out. That's what was giving me all those  
18 problems.

19 Q. Let's talk a little bit how you are today, if we could.  
20 Would that be all right?

21 A. Sure.

22 Q. First of all, tell us about your injured leg.

23 A. So there was significant nerve damage on my right leg, and  
24 because of that I have very little feeling from the knee down.  
25 I have a big piece of shrapnel that's in my ankle bone which



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R. Sokolow - direct

1 causes very painful throbbing very often. There is a constant  
2 tightness and stiffness in the leg which I feel with every step  
3 that I take.

4 I have a limited range of motion in my ankle, which  
5 gives me problems at certain times. My toe has a torn tendon.  
6 So I can't really move my big toe up and down. I still have a  
7 bone -- it's not a weight-bearing bone, but the fibula bone  
8 never healed so there is about a gap this much in that bone.

9 Q. Just say in words.

10 A. It's probably about a two- to three-inch gap in the bone  
11 where it hasn't healed.

12 And my legs are very disfigured and scared. And in  
13 the summer or the spring when I am not wearing tights, I am  
14 very self-conscious about it. Plus the shrapnel that's still  
15 in my other leg.

16 I also have the rod that goes through the bone. Last  
17 year I was having a problem because the screws started to move  
18 and they started to stick out of my leg and cause me pain. So  
19 I had to go back to the doctors and they had to do a another  
20 surgery to remove the screws. They didn't remove the rod and  
21 they said, if it's not bothering me, I shouldn't touch it  
22 because it could cause more problems.

23 Q. How many surgeries have you had all together on your leg?

24 A. Two.

25 Q. Now, do you have any lasting emotional impacts?

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R. Sokolow - direct

1 A. Yes. I get very anxious if I am anywhere where there's a  
2 large crowd. If I am ever in a restaurant or a store, I am  
3 constantly looking over my shoulder. If I see someone wearing  
4 a big coat that looks a little suspicious, I'm always nervous  
5 that maybe they are a terrorist. I get very nervous when I'm  
6 near a bus. If I'm driving through a tunnel or over a bridge,  
7 I get very anxious. Loud noises make me jump and get very  
8 anxious.

9 Q. Do you feel that your symptoms are worse because you were  
10 in a terrorist attack?

11 A. Absolutely.

12 Q. Tell us why you feel that way.

13 A. Well, somebody purposely tried to murder me and my family  
14 and I can't forget that. I'm always looking over my shoulder  
15 and I think that maybe there is somebody else who might be a  
16 terrorist.

17 Q. Do you have flashbacks, Rena?

18 A. Yeah.

19 Q. What do you see?

20 A. I see the head sometimes. I see just like mayhem and what  
21 you see in that picture. Whenever there is something that  
22 happens on the news and I happen to be watching it, it just  
23 brings back that day like it was yesterday and I get very  
24 upset. Unfortunately, we are seeing that a lot now. So I  
25 think about it all the time when and I look at my kids and Mark

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R. Sokolow - direct

1 and see their scars. It's just with me all the time.

2 Q. Thank you, Rena.

3 MR. YALOWITZ: I don't have any further questions on  
4 direct.

5 THE COURT: Any cross-examination?

6 MR. ROCHON: No, sir.

7 THE COURT: Thank you, ma'am.

8 You can step down.

9 (Witness excused)

10 THE COURT: Mr. Yalowitz, would you call your next  
11 witness?

12 MR. YALOWITZ: Yes, sir.

13 Your Honor, our next witness will be Alan Bauer.

14 ALAN BAUER,

15 called as a witness by the Plaintiffs,

16 having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. YALOWITZ:

19 Q. Alan, where did you grow up?

20 A. Wilmette, Illinois.

21 Q. Are you a citizen of the United States?

22 A. Yes, I am.

23 Q. Where did you attend college?

24 A. I attended college, Harvard University.

25 Q. Did you go to graduate school after you finished with

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A. Bauer - direct

1 Harvard?

2 A. Yes, I did.

3 Q. What year did you finish in college?

4 A. 1987.

5 Q. Then where did you go to graduate school?

6 A. University of Wisconsin, Madison.

7 Q. What did you study there?

8 A. Biochemistry.

9 Q. What kind of things in biochemistry were you working on?

10 A. We solved a structure of an enzyme in order to understand  
11 the relationship between its physical structure and its  
12 chemical reaction.

13 Q. Did you wind up having a Ph.D. in, what did you say,  
14 biochemistry?

15 A. Yes, I do.

16 Q. What year did you receive that Ph.D.?

17 A. I received my Ph.D. in December 1991.

18 Q. What did you do after you finished at the University of  
19 Wisconsin?

20 A. I did a short post doc in Madison until July of 1992, and  
21 at that time I went to the Hebrew University of Jerusalem on a  
22 Fulbright fellowship with the U.S. government.

23 Q. What is a Fulbright fellowship?

24 A. The Fulbright Program was head up by William Fulbright 40,  
25 50 years ago in order to encourage academics to go from the

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1 U.S. overseas, and vice versa.

2 Fulbright has positions for students, post-docs and  
3 professors. So mine was actually a Fulbright post-doctoral  
4 fellowship at the Hebrew University.

5 Q. When you were in Israel studying on that Fulbright  
6 scholarship, did you meet anybody important?

7 A. I was very fortunate to meet Revital Bauer, and it was  
8 towards the end of my Fulbright when we met.

9 Q. Is Revital a native Israeli?

10 A. Yes. She was born and raised in Jerusalem.

11 Q. How many children do you have together?

12 A. We have four boys.

13 Q. Just tell us who they are, youngest, oldest.

14 A. The youngest is Yehuda. Next oldest is Daniel. Third  
15 going up is Binyamin. And Yehonathon is our oldest.

16 Q. Did you find work there in Israel?

17 A. Yes. I did a post doc at Hebrew University on the  
18 Fulbright, after which I did a second post doc at Bar Ilan  
19 University on surface modification chemistries.

20 In 1988, I founded a company based on technology that  
21 I invented. Fortunately, I received four U.S. patents in  
22 diagnostics, detecting bacteria viruses in different samples.

23 Q. What kind of work have you been doing most recently?

24 A. I have been continuing in developing my sensor. We just  
25 received an award of 500,000 shekels from the Grand Challenges

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A. Bauer - direct

1 Israel, which is to develop sensors for water safety detection  
2 in the Third World. Specifically looking at China and India.  
3 The awarded was given two weeks ago by the foreign minister of  
4 Israel and the foreign minister of Canada to develop diagnostic  
5 devices for water safety.

6 So independent of my work with sensors, I do patent  
7 writing. I filed 147 patents in the U.S., Europe, Japan and  
8 elsewhere, and also I do business consulting.

9 Q. So I want to take you, Alan, to March 2002.

10 First of all, just give us a picture of your family at  
11 that time. How old were your boys, how old were you.

12 A. OK. I was 37 at that time, and Yoni was the oldest at 7,  
13 Binyamin was 6, Daniel was 4, and Yehuda was one and four  
14 months. We lived in a very small apartment -- it was about 500  
15 square feet -- in the house where Revital was born. We lived  
16 downstairs from our in-laws. So we always had baby-sitters and  
17 had a lot of love and support from my in-laws.

18 I would walk to work. My lab office was a 15-minute  
19 walk from our house downtown. The kids, except for Yehuda,  
20 would go to school for usually half a day. It's called *gan*.  
21 It's like kindergarten. Yehonathon was already in third grade  
22 at that time. Binyamin was in second grade.

23 So the normal routine was we would get up. The kids  
24 would go to school. I would go to work. They would come home  
25 midday. I would come home later. And we spent an enormous

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A. Bauer - direct

1 amount of time together.

2 Q. How far was it from your home to your office?

3 A. Walking is about 15 minutes.

4 Q. Is that how you got back and forth?

5 A. Yes. All the time I walk both directions.

6 Q. Also, could you give us a picture of what life was like in  
7 Jerusalem in March of 2002?

8 A. Things were tense. March 2002 actually was the deadliest  
9 month of the Second Intifada. There were numerous attacks  
10 throughout Israel. Attacks being defined not only as bombings,  
11 but also as shootings, stabbings, Molotov cocktails, drive-by  
12 shootings. Things were tense.

13 Downtown often was empty. There had been attacks the  
14 previous months, the bombing which we just heard, as well as  
15 other bombings on Ben Yehuda Street, shootings. I saw one  
16 shooting from our office. I saw a shooting until they killed  
17 the guy. Other bombings we heard from our house.

18 Things were tense. A person could hear a tire explode  
19 and think it was a bomb and just wait to hear the sirens or to  
20 hear on the news. So many people, like the Bauers, didn't go  
21 downtown much, only when we had to. But there was definitely a  
22 tense feeling, it was happening everywhere, and one never knew  
23 where or when, so people were always on their guard.

24 (Continued on next page)

F22TSOK6

A. Bauer - direct

1 BY MR. YALOWITZ:

2 Q. Was your office in the downtown area?

3 A. Yeah, our office was downtown just off of Jaffa Street  
4 where there had been the bombing which you just discussed as  
5 well as the shooting, and it's just kitty corner from Yehudit  
6 Street which is where there have been several bombings, a  
7 double bombing, triple bombing. So this was an area that was  
8 considered to be downtown and also one that had seen bombings  
9 previously.

10 Q. Was your home in the downtown area as well?

11 A. Our home is outside of downtown, but we did hear many of  
12 the bombings, and the one that was just referenced, Sbarro  
13 where 15 people were killed, we heard that. We heard car  
14 bombings as well. So we don't live downtown, but we live close  
15 enough that we heard different bombings at different times.

16 Q. Where was that pizzeria?

17 A. The pizzeria is a central point downtown, so the corner of  
18 Jaffa Street and King George, and literally the middle point of  
19 downtown Jerusalem.

20 Q. Let's go to March 21, 2002. Were the kids out of school  
21 that day, in school, what was going on?

22 A. March 21, 2002 was the first day of their Passover  
23 vacation. Our boys generally have three vacations, one of them  
24 being for Passover, so they get a week off before the holiday,  
25 the week of the holiday, and the week after. So that day they



F22TSOK6

A. Bauer - direct

1 were off.

2 And so things were a little bit different in terms of  
3 the normal schedule because the kids were all home, and when  
4 Yehonathon got up, he complained of a very sore throat.  
5 Revital, she looked at it, and she had a feeling it was strep.  
6 So what we decided was I would take him to the doctor, and  
7 eventually he would come with me to the laboratory and spend a  
8 day with me. And so Revital was cleaning for Passover, which  
9 is extremely intense. It's not just spring cleaning, it's  
10 literally taking the house apart and putting it back together.  
11 So if one of the kids were out of the house, it would be easier  
12 for her to clean the oven or do whatever she needed to do.

13 Q. So did you wind up taking Yoni to the doctor that day?

14 A. Yeah, I took him first thing to the doctor, Dr. Itai.  
15 She's still his doctor today. And she was so certain it was  
16 strep that she didn't take a throat culture, she simply gave me  
17 a prescription for I think ampicillin. And from there we went  
18 to the rest of the schedule, which is physical therapy for my  
19 arm, which I will discuss in a moment, and then to the lab. We  
20 were in the lab I think around 10 o'clock in the morning and we  
21 left at 4:20 in the afternoon.

22 Q. Can you just describe the weather that afternoon as you  
23 were heading out for home.

24 A. It was cold. It was cold and extremely windy. The rain  
25 had stopped but it was cold enough that we were both bundled

F22TSOK6

A. Bauer - direct

1 up. And we didn't talk because it was so cold. We were  
2 holding hands, but we weren't -- there's no conversation  
3 between us. We wanted to get home as quickly as possible.

4 Q. Did your route take you right up Jaffa Road?

5 A. Yeah, my lab was on Rabbi Kook Street, which then goes into  
6 Jaffa Road. And each point I remember we went by the place  
7 where I had seen the shooting, we went by the bombing whose  
8 picture you just showed, we crossed in front of Sbarro, which  
9 was blown up four months previous.

10 Q. Did you turn left on King George?

11 A. Yes, we did. We turned left on King George and kept  
12 walking up King George towards home.

13 Q. And all this time you were holding your little boy's hand?

14 A. Yeah, my left hand and his right hand were holding hands.  
15 I had my bag with my lab notebook and my cell phone in my right  
16 arm and we both bundled up with hoods on.

17 Q. Could you tell us what happened next?

18 A. As we got about halfway through King George Street, I felt  
19 an enormous push from behind. I couldn't stop. I was being  
20 pushed from here I'd say to the end of this room. And the  
21 whole time I could see smoke on either side of me. And unlike  
22 the explosions where I could hear a very clear explosion, boom,  
23 this was a more like a train, a rumbling of a train. So I kept  
24 being pushed and I couldn't stop until I fell down on my right  
25 knee. And when I fell down, I looked at my left arm and it was

F22TSOK6

A. Bauer - direct

1 coated in blood, and so at that moment I knew we had been in a  
2 bombing.

3 Q. Where was Yoni?

4 A. I got up and I turned around. We had been holding hands  
5 just seconds ago and I didn't see him. I turned around because  
6 everything was smoke. It was like still life. Nothing was  
7 moving. There was debris and bodies on King George Street.  
8 Nothing was moving. But I didn't see him, and that scared the  
9 daylights out of me because we were holding hands. Where could  
10 he be? So from the first moments I couldn't see him.

11 Q. I would like to show you a picture.

12 MR. YALOWITZ: Your Honor, this is Exhibit 1133. I  
13 just can't recall whether we moved it in evidence.

14 MR. ROCHON: It's in evidence.

15 THE COURT: I believe it is.

16 A. Yeah, we were standing in front of the store that has the  
17 purple sign. I remember going by it, and it's the last thing  
18 that I remember we went by until I felt this massive push.

19 That's King George street as it was after the bombing.

20 Q. Where did you find Yoni?

21 A. I turned around and I ran back, and it didn't take too long  
22 to see a seven-year-old boy face down on the sidewalk. It was  
23 pretty easy to pick him out of other bodies and debris. He was  
24 almost where we had been standing when this happened. So I ran  
25 back and I grabbed him. I picked him up and put him above my

F22TSOK6

A. Bauer - direct

1 head, and I could hear him moaning. When I heard him moaning,  
2 I knew he was alive, but I didn't know anything else. So I put  
3 him on my shoulder and I ran out of the destruction zone and  
4 ran back to where I was before and put him down.

5 MR. YALOWITZ: I think we may have a photo of that  
6 moment as well.

7 Your Honor, this is Exhibit 1122. And again, I don't  
8 recall whether it's in evidence, but why don't we go ahead and  
9 offer it.

10 MR. ROCHON: I think it's in evidence.

11 THE COURT: It will be admitted into evidence.

12 (Plaintiff's Exhibit 1122 received in evidence)

13 Q. Tell us what is going on.

14 A. So I put him down, and for all the wonderful degrees I had,  
15 I had idea what to do. My boy -- something happened to him,  
16 he's unconscious. So the fellow with the blue cap, his name is  
17 Zohar Weiss, he came up to me and said I'm an army medic, I'll  
18 take care of him. I didn't know what to do, so I told him do  
19 what he could. So as they were taking care of him, I ran back  
20 and got my bag.

21 Q. Where are you in this photograph?

22 A. I'm the one holding the phone with the bloody hand there.

23 And I got the bag and I ran back. And that's my coat  
24 on Yehonathon's leg. And so I called Revital. I couldn't hear  
25 anything because my ears had popped out from the shock wave.

F22TSOK6

A. Bauer - direct

1 So I looked at the phone to see if I was connected, looked at  
2 the phone and said there was a bombing and we were injured.  
3 And she didn't know what was going on. I couldn't hear her.

4 And meanwhile, this fellow who started taking care of  
5 my hand, I have no idea who he is, I saw him about two years  
6 later downtown and we looked at each other, and I knew who he  
7 was and he knew who I was, but I have no idea. And he starting  
8 to stem the bleeding in my arm. And at that point we got in  
9 the first ambulance that left. And I closed the phone, put it  
10 in my bag, and I told them that I was his father, and they told  
11 me to get in, and we took off.

12 Q. Tell us what happened in the ambulance.

13 First of all, how was Yoni doing?

14 A. When he was taken in the ambulance he was unconscious. In  
15 the ambulance they stripped him down to his underwear.

16 Q. Did they check his extremities and torso?

17 A. One could see from his toes to his head there was  
18 nothing -- his face was a little bit red colored, maybe from  
19 the heat of the explosion, just a little bit of red coloring on  
20 his checks. But in looking at him, everything looked okay, but  
21 again, he was unconscious.

22 So while we were sitting there, there were two  
23 paramedics, so one paramedic, he put a bandage on my arm, and  
24 the other one was at Yehonathon's head, and he pulled a towel,  
25 and it was soaked in blood from the back of his head. So

F22TSOK6

A. Bauer - direct

1 that's the first news that we had that he had some type of head  
2 injury.

3 Q. What was he doing in the ambulance? Was he just laying  
4 there, was he -- describe his physical and mental status.

5 A. So he varied between two states. He was either completely  
6 quiet or he was flailing with both arms and both legs  
7 screaming. So I wanted to call my wife, and I knew we were  
8 going to this hospital, Hadassah, so I wanted to call her. So  
9 I put my hand in my bag and there was no phone. There was a  
10 huge hole in the bottom of the bag, but there was no phone, it  
11 had fallen on the street, someone found it. So the paramedic  
12 treating me gave me his cell phone, and literally as we were  
13 passing the street where we lived I tried calling, but all the  
14 lines had collapsed because everyone was calling to find out if  
15 grandma's okay, where are you, so there was no phone line.

16 The fellow who sat next to me filled out a form, which  
17 is a standard form in these kind of attacks. It has a picture  
18 of a human body, front and back, and they simply circle where  
19 the damage is and write a few words. And on the bottom there  
20 are tags, so from light to serious injury to unstable, et  
21 cetera, to the final, which is black, which is dead. So he was  
22 filling this out, I looked over at him, and he had left the  
23 only one, the last one there, which said dead.

24 Q. So what did you think when you saw that black tag?

25 A. There was a time he wasn't moving, so I grabbed him and

F22TSOK6

A. Bauer - direct

1 started shaking him and I said don't tell me he's dead, he was  
2 moving a minute ago. So he unfurled the next one, which was  
3 urgent, not stable. So he said this is the one, this is the  
4 one I meant. But he flipped it over not thinking, but the only  
5 one I saw was dead, and so he told me that that wasn't right.  
6 And at that point we just simply drove 20, 25 minutes to  
7 Hadassah.

8 MR. YALOWITZ: I think we have a clip of the ambulance  
9 arriving, your Honor. It's a portion of what we earlier marked  
10 for identification as 374. We offer that clip in evidence.

11 MR. ROCHON: No objection.

12 THE COURT: It will be admitted into evidence.

13 (Plaintiff's Exhibit 374 received in evidence)

14 (Video recording played)

15 MR. YALOWITZ: Let's pause it right there.

16 (Video recording paused)

17 Q. What are we looking at?

18 A. Obviously on the left is an Israeli reporter at the site of  
19 the bombing, on the right is the ambulance in which Yehonathon  
20 and I arrived at the hospital.

21 Q. Is that you?

22 A. Yeah, I got out. Again I had this bandage I wanted to go  
23 with Yehonathon. We had been together all day and I wanted to  
24 go with him, but they pushed me onto my own stretcher because I  
25 had to get checked out. So he was taken to the trauma unit and

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A. Bauer - direct

1 I was taken to the general emergency which had been made into  
2 cubicles, and each cubical would receive one person and get  
3 proper treatment.

4 Q. I think we may have a little more.

5 (Video recording played)

6 A. They won't let me go. That's Yehonathon on that stretcher.

7 (Video recording ended)

8 Q. When you were in the hospital, were you sharing a room with  
9 someone?

10 A. The original arrival I was just put into one of these  
11 cubicles, and I asked them to call Revital, which they did, and  
12 she arrived with her father and her brother. They then took an  
13 X-ray of my left arm, and I asked to know what the results  
14 were, and they showed me that I had a Phillips screw in my left  
15 arm.

16 Q. You said a Phillips screw?

17 A. That's correct.

18 Q. So then what happened?

19 A. They wanted to do obviously surgery to take care of the  
20 damage and get the screw out, but they were waiting for  
21 Dr. Carol Pidhorz, she's the number one hand surgeon in Israel.  
22 And she operated on me two and a half months earlier. I put my  
23 hand through a window at home, and I learned quickly the  
24 problems of putting the hand through the window is pulling it  
25 back out. So I cut nerves and one of the arteries at home, and



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A. Bauer - direct

1 so I stayed in the hospital, and this was New Year's Eve  
2 2001/2002, so she had done the surgery. So they waited for her  
3 to come, but again, the bombing is around 4:25, I think around  
4 6:30 she showed up. My arm was getting tight, and I asked for  
5 morphine, and they were getting worried, they couldn't find a  
6 pulse in my fingers. And eventually they did find a pulse, and  
7 they were willing to wait until she showed up.

8 Q. After you got done with surgery, I think I asked you  
9 before, was there a boy in the room that you were sharing?

10 A. Yeah, so the surgery we were finished -- I woke up around  
11 2:00 a.m. Friday morning, and I was taken upstairs to the  
12 plastic surgery ward, and across from my bed there was a young  
13 soldier who had been in a double bombing about two months  
14 earlier. He had received shrapnel to the head and was a  
15 vegetable. And his name was Sharom. And from the first moment  
16 I got up there, I did everything possible to block him out, not  
17 block him out as a person or his family, but not to read on his  
18 injuries and their outcome what would be on our son Yehonathon  
19 and what he had gone through now and what was waiting for him  
20 in the future.

21 Q. What were you concerned about? Say what your fears were.

22 A. I was terrified that a brain injury -- I didn't know where  
23 it was going to go. A person has an injury in an arm or leg,  
24 one might have an idea maybe -- maybe the worst would be an  
25 amputation, which I wouldn't wish on anyone. But with a brain

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A. Bauer - direct

1 injury, I had no data. I know he had a two-hour surgery to put  
2 in a shunt to let the fluids out and they had taken him up to  
3 the pediatric ICU. Other than that, I had no information as to  
4 his status.

5 Q. Now did you have a chance to get to that pediatric ICU to  
6 see him?

7 A. Next morning, Friday morning, Revital came to the hospital,  
8 and she said do you want to see Yehonathon. So I said sure. I  
9 didn't want to see him, only because I was terrified about what  
10 I was going to see. I had no idea what his status was or what  
11 he would look like, but I got in a wheelchair, and I had a  
12 heparin drip because of the small blood vessels, they wanted to  
13 make sure they weren't going to clog up.

14 So we went over to pediatric ICU, and he was in a  
15 medically induced coma. They shaved half his head to put in  
16 the shunt. His eyes were gray and open looking in different  
17 directions. And before I left the ICU they show me the first  
18 CT scans, and a piece of shrapnel had passed through his coat,  
19 broken the back bone of his head, passed fully through his  
20 right brain and lodged in the front brain where it was still  
21 sitting at that time.

22 Q. How long was Yoni in a coma?

23 A. They kept him initially in a coma for three days, after  
24 which they were going to bring him up. And when they did, he  
25 tried to pull the tube out of his head, so they knocked him out

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A. Bauer - direct

1 again for another 24 hours, after which they brought him up and  
2 they kept him up.

3 Q. Was he able to see when he came out of that coma?

4 A. When he came out, the doctors asked us to interact with  
5 him, and the entire -- the pediatric ICU was a six-bed ward, so  
6 when he came up, everyone was around his bed, the doctors, the  
7 nurses, the other parents. So they brought him up, and he  
8 still had that terrible pain in his throat. So the work that I  
9 was doing was in conjunction with the chief of microbiology at  
10 Hadassah. So I called him up and said you got to get him some  
11 antibiotic for his throat. He could talk and hear us. They  
12 asked him to move his right arm, which he did -- sorry, his  
13 right leg, which he did. He could not move his left arm or  
14 left leg. And he was blind. He couldn't see.

15 Q. Did you get a test tube from -- not a test tube, a lab  
16 specimen tube from the doctors?

17 A. Yeah, in each surgery, my own and then several months later  
18 Yehonathon's, we were given the shrapnel. And it came in a  
19 specimen bottle, as you described.

20 MR. YALOWITZ: Your Honor, may I approach?

21 THE COURT: Yes.

22 Q. I'm handing you, Alan, what we have marked for  
23 identification as Plaintiff's 1140. Do you recognize that  
24 specimen tube?

25 A. Yes, I do.

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A. Bauer - direct

1 Q. What is in it?

2 A. The three pieces of shrapnel from that bombing.

3 MR. YALOWITZ: Your Honor, the plaintiffs offer 1140  
4 in evidence.

5 MR. ROCHON: Objection to 1140.

6 THE COURT: I'm sorry, could I see it for a second?

7 Come up for a second.

8 (Continue on next page)

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A. Bauer - direct

1 (At sidebar)

2 THE COURT: Where is this supposed to come from?

3 MR. YALOWITZ: It came from -- the doctors gave it to  
4 him. It's the screws they took out of his body.

5 THE COURT: His body?

6 MR. YALOWITZ: And his son's body.

7 THE COURT: And there's two screws?

8 MR. YALOWITZ: There are three, there's also one from  
9 a washing machine.

10 THE COURT: And how many came from him and how many  
11 from his son?

12 MR. YALOWITZ: One from him, one from the son. One  
13 was lodged in the coat, in the son's overcoat.

14 THE COURT: Okay. What's the nature of your  
15 objection?

16 MR. ROCHON: I didn't object.

17 THE COURT: I'm sorry?

18 MR. ROCHON: I said no objection.

19 THE COURT: The whole room thought you said objection.

20 MR. ROCHON: I'm sorry, Judge.

21 (Continued on next page)

22

23

24

25

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A. Bauer - direct

(In open court)

MR. ROCHON: I'm sorry I mumbled. What I said was no objection.

THE COURT: Okay, it will be admitted.

(Plaintiff's Exhibit 1140 received in evidence)

Q. I want to ask you a little bit about how the terror attack changed your life. First of all, is there a day that goes by that you don't think about what happened on March 21?

A. No, Yehonathon limps every step he takes, and he still has issues with his left hand. We're thankful, we're truly thankful that he can see, even though we think apparently he's still missing part of his visual field. He went back to school. He's a good boy, a really good boy, as are his brothers, but it still hasn't gone away.

We feel the pain of what we went through. We feel the hatred of the ones who did it. The screws themselves are an add on. There's a bomb and a mechanism for activating a bomb, and the screws are intended to create as much physical damage as possible. So it's an extraordinary amount of hatred for people we have never met with whom we have never had any interaction.

So I would say that it is with us. It doesn't disappear. It doesn't go away after a week or a month or even a year. We are aware of when there are other attacks. I can't compare myself to anyone else, if we feel it more. I think we

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A. Bauer - direct

1 do. We're sensitive to it. We think of the families, the  
2 tunnel they're entering. On occasions we have gone to see  
3 families. For example, there's one boy who had a head injury,  
4 and we felt maybe there was some small insight that we could  
5 give that others might not have. But that's our 9/11, that's  
6 the before and after, everything is before that moment, and  
7 then after that is after that moment.

8 Q. I want you to summarize for the jury your physical  
9 injuries.

10 A. So I had two screws pass through or enter my arm. The  
11 first screw entered and left, and the second screw as I  
12 mentioned was in my arm. The surgery was to remove that screw.  
13 Two arteries had been damaged. So one was fixed, the other one  
14 they took a vein out of my left leg and replaced it. Because,  
15 as I mentioned, I damaged that one previously New Year's Eve,  
16 so after two hits they decided to replace it. These are two  
17 skin grafts taken from my left leg to cover this area here. In  
18 terms of functionality, thank God I have full functionality.

19 Do you want to see the coat where it came in, or  
20 that's not of interest?

21 Q. I will come to it. What I would like you to do is take us  
22 through a -- summarize for the jury the impact on all the  
23 family members. Just stick with me on yourself, do you worry  
24 about Yehonathon's future?

25 A. Yes and no. As his father, along with his mother, we're

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A. Bauer - direct

1 Yehonathon's biggest cheerleaders, and we see for him a  
2 tremendously bright future as a father and success in all that  
3 he does. On the other hand, we are aware of the doctors'  
4 reports, which one leg is longer than the other, and so the  
5 concern is that there might be an effect on his spinal cord,  
6 which could lead to other problems.

7 His vision, apparently there is some limitation,  
8 nobody can quantity it. Two years ago he took out a driver's  
9 permit with his brother Benji in Las Vegas. And so when it  
10 came time for the vision test, he completely got nervous, he  
11 couldn't control himself. And so Benji went first pass, and  
12 Yehonathon, it was his turn to take the vision test. He passed  
13 the written for the vision test. And as he read the numbers,  
14 the woman said it's all wrong. And I could see his face, and  
15 it turned out he read the wrong row. So she said no, no, read  
16 next row up, and he got them all right. So as parents when he  
17 starts driving he'll have to pay attention more, but we see  
18 automatically he's going to have to move his head. Will he be  
19 conscious enough to drive safely? We hope so, but obviously we  
20 don't know.

21 Q. How old is he today?

22 A. In a month he will be 20.

23 Q. Do you yourself have feelings of personal responsibility?

24 A. Absolutely. I brought him there and he was with me. Even  
25 though we tried to minimize our exposure to downtown and



F22TSOK6

A. Bauer - direct

1 crowded places, ultimately I did bring him downtown. He was  
2 with me. Also, a Jewish view of things, when children suffer  
3 something, it's a reflection on God talking to the parents. So  
4 whatever happened to him is something that I have a level of  
5 responsibility or cause of effect in terms of my relationship  
6 with God. But certainly I mean he did nothing. He's an angel.  
7 So absolutely, he's never ever held anything against me or said  
8 it was because of you, but I have done that to myself.

9 Q. How do you feel about walking the streets?

10 A. I would say today we don't pay enormous attention.  
11 Recently there's been a spate of run-over attacks and knivings,  
12 but certainly within the first two years of the attack we  
13 didn't go to the open market, the shuk. We didn't take buses.  
14 We would stay away from crowded areas. I would stay back from  
15 a crosswalk until it turned green and run across the crosswalk.  
16 We would be looking over our shoulders. We are sensitive to  
17 any loud noise. A tire could explode and I would jump up a  
18 tree. So we would be extremely sensitive to anything. My wife  
19 today, even if she can't contact someone by cell phone or  
20 someone isn't on time and she doesn't know why, she can go into  
21 a panic.

22 Q. Alan, we put up on the board a summary of what you have  
23 just described. Is that an accurate summary?

24 A. I would say so. I don't think I'm always looking over my  
25 shoulder today as much as certainly in the immediate few years

F22TSOK6

A. Bauer - direct

1 after the bombing, but other than that I would say it's an  
2 extremely accurate description.

3 Q. I would like to turn to Yoni and ask you to summarize his  
4 injuries.

5 A. So the head of a screw passed through his right brain. It  
6 damaged the occipital lobe, which controls vision. It passed  
7 through the deep white matter, which controls physical control  
8 for him on the left side. He was in the pediatric ICU for  
9 three and a half weeks. When he finished there he still was  
10 blind and he still could not use his left side. At the very  
11 end we were able to get him to sit up in a wheelchair. He was  
12 in a diaper. He would have bed sores. We had to turn him  
13 every 15 minutes or so. He had a lot of head pain, so they  
14 were terrified at Hadassah maybe he had secondary bleeding, so  
15 he was being run down to the CT on a nearly daily basis to see  
16 if everything was okay. They couldn't measure the liquid  
17 pressure in his head, so they had to do that by constant CT  
18 scans.

19 Q. Did he have to relearn how to walk?

20 A. Yeah, after we finished at Hadassah he was taken to ALYN  
21 Hospital, which is a pediatric hospital, serves all different  
22 functions. But the first thing that he needed to do was learn  
23 to walk again. His vision did return when he was at ALYN  
24 approximately a month after the bombing. He was initially very  
25 limited. He would trip over his brothers. His brothers would

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A. Bauer - direct

1 play Lego and he wouldn't see them. He would trip over them.  
2 And there's this angst that he knew he couldn't see them, and  
3 we all felt bad for him that he still had a serious issue. But  
4 he had to learn to walk again. He had to do a lot of physical  
5 therapy. He was in ALYN off and on initially full time, then  
6 as an outpatient for the next several months. And he  
7 eventually did horseback riding therapy, swimming, biofeedback,  
8 essentially anything that they felt would give hope for more  
9 control. They actually gave him a Botox treatment. His left  
10 leg is very tense, so he doesn't walk properly, so they gave  
11 him a Botox treatment and gave him a plaster cast to help him  
12 walk properly. But obviously Botox is short term. So today he  
13 still limps. He still holds his left arm very tightly, and he  
14 has to concentrate to do certain activities. He'll still,  
15 every now and then, ask me to button his right button. That's  
16 difficult for him. But he's conscious. Yehonathon wants to be  
17 like everyone else. He never wanted attention from this.

18 Q. How would you describe his level of stress and anxiety  
19 arising from the bombing?

20 A. He has a high level of anxiety not because directly from  
21 the bombing but because of implications. For example, when he  
22 got back to school he had an amazing teacher, and even when he  
23 was blind he would learn with him every single day so he  
24 continue on with his class and he wouldn't have to stay back a  
25 year.

F22TSOK6

A. Bauer - direct

1 As he got back to school, the school has school trips.  
2 So to get the kids excited they say we'll climb rocks and jump  
3 here and there. He would be in a panic, he can't keep up, he  
4 wouldn't be able to do it, they would laugh at him, he would be  
5 limping. And we would talk to the teachers, and they would say  
6 it's a very simple trip, we want to get the kids excited so  
7 they want to go. And so he did all of them. I don't think he  
8 skipped any.

9 He has a bit of a compensatory behavior. Last year we  
10 did -- I gave each kid half an hour flying lesson. I sat in  
11 the back, each one, from taxi up to the landing, they did  
12 everything. Yehonathon wanted to do it. He feels he needs to  
13 prove himself. So he wanted to go to the Judea, the most  
14 difficult walking trip in Israel. He feels the need to prove  
15 himself that he can do anything that anyone else can do.

16 So he doesn't like talking about the bombing. He  
17 doesn't like even when I give talks. I used to give talks to  
18 groups visiting. He doesn't like that. He wants to be exactly  
19 like everyone else.

20 Even where they took out the screw, he has a mark  
21 where there's no hair where they cut into the bone, took out  
22 the screw, and closed it. I remember him calling me -- his  
23 friends said: What's that? He called me and said please call  
24 Dr. Constantine. He was the one who did the surgery to remove  
25 the piece of shrapnel. And he said please ask him how we can

F22TSOK6

A. Bauer - direct

1 put hair here so no one can see this. So he's extremely self  
2 conscious.

3 Q. Was that surgery after -- how far after the initial bombing  
4 was that surgery by Dr. Constantine?

5 A. The surgery was approximately two months, the end of May  
6 that he had the surgery in Tel Aviv, at which time the head of  
7 a Phillips screw was removed from his brain.

8 Q. We put up on the board a summary of the things you just  
9 talked about. Take a look at it and tell us if you think it's  
10 an accurate summary.

11 A. I think it is accurate. Extreme stress and anxiety I don't  
12 know how to measure. He definitely is worried. He didn't  
13 mention to me, but he mentioned to Revital: Who would marry  
14 me? And so that's something I don't worry about, because  
15 anyone who wouldn't want to marry him because of that is  
16 someone that we wouldn't want to have as a daughter-in-law. So  
17 I'm not worried about that, but it worries him that somehow  
18 people will look differently at him when he approaches the age  
19 of going out and look at getting married and establishing a  
20 family. So I guess maybe we'll leave it extreme, but I do  
21 think that's an accurate description.

22 Q. Let's talk about Benji. How would you say that the bombing  
23 affected him?

24 A. Benji was obviously the next oldest, and what happened for  
25 Benji and the other kids, obviously there's fear. There's fear

F22TSOK6

A. Bauer - direct

1 when a parent is incapacitated, a fear that how do we -- how  
2 does the household run without a parent around, what is going  
3 to happen to this parent?

4 With Binyamin with Yehonathon's injury, he became the  
5 de facto oldest child. Yehonathon was the one we're going to  
6 do this today and do this, and all the sudden Yehonathon, even  
7 when he came home, he came home only a month after the bombing,  
8 but Binyamin became in charge. And I think that he has a lot  
9 of fears, fears with respect to his parents. And also he is a  
10 very empathetic child, so I think that he was also worried  
11 about Yehonathon. He was worried that when Yehonathon should  
12 come back to school maybe people would laugh at him and would  
13 look funny.

14 So I think it was extremely hard for him, but he was  
15 obviously a big help for us in terms of helping with his  
16 younger brothers and trying to keep the household on as normal  
17 a footing as one could have where everything was not upside  
18 down.

19 Q. Did he suffer from stress and anxiety?

20 A. I definitely say so. I remember once we were at the old  
21 city and we had to get home and we couldn't get a cab. I don't  
22 know, we didn't have a car at that time so we couldn't catch a  
23 cab. It was during the holiday so everyone was taking cabs,  
24 and he said we're not going to get on a bus. We'll walk home.  
25 It took us an hour, but we weren't going to get on the bus.

F22TSOK6

A. Bauer - direct

1 Binyamin is a gentle and sensitive boy, and I think  
2 such an enormous shock still plays out. I think there's an  
3 enormous amount of fear that he has and that has also affected  
4 him in terms of how he interacts with us as his parents and how  
5 he interacts with his brothers. And yeah, he's in Yeshiva now  
6 and he's learning, but again, yeah, in terms of the four boys,  
7 they're all fantastic and we love them all. I think he's the  
8 most sensitive, so I think the attack itself made the most  
9 lasting impression on him

10 Q. We put up on the board a few words. Have you had a chance  
11 to look at them?

12 A. I think that's a reasonable and fair description.

13 Q. Let's talk about Daniel.

14 A. Daniel, he was four at the time. But what we found after  
15 the bombing was that he felt a need to be liked. That it may  
16 have been -- it's not really a digression but filling in some  
17 of the details. Revital would leave at the house at 8:30 to be  
18 with Yehonathon at 9 o'clock in the morning either at Hadassah  
19 or ALYN. She would be there until five.

20 I would be at work. I'd get the kids out in the  
21 morning, go to work until around one, come home. Our neighbors  
22 where we live, every day someone else prepared food for us. We  
23 didn't have the ability to go shopping to prepare food, so  
24 every day at one o'clock someone would come with hot food. So  
25 the kids would come home, I would be with them until five, I

F22TSOK6

A. Bauer - direct

1 would switch with Revital, be with Yehonathon until ten, and  
2 someone would stay in the hospital and sleep with Yehonathon in  
3 the hospital.

4 So what happened was we didn't have a lot of time for  
5 the other kids. We tried as much as possible, but we had  
6 baby-sitters, my sister-in-law, girls from the neighborhood  
7 would come and baby-sit with them. So he felt a need to have  
8 attention. And he also has a bit of a rebellious streak. He  
9 was thrown out of school twice a couple years ago, and each  
10 time they took him back. He learns well. He's a good boy, but  
11 there's a certain amount of rebellious streak. And also this  
12 need to be liked, which again may be related to the fact that  
13 we did not have -- we didn't have -- they understood Yehonathon  
14 needed our full attention, but that didn't mean that they  
15 didn't need our attention as well.

16 Q. Did Daniel develop fears?

17 A. I think so, but he covers them over. In Yeshiva they call  
18 him Jack, as in Jack Bauer. I understand the basic idea. He  
19 plays Mr. Tough Guy. I think, again, it's simply a scab. It's  
20 something to cover over an inner fear that he has after what we  
21 went through.

22 Q. We put up on the board a few words describing what I think  
23 you just said. Is it a fair summary?

24 A. I believe so.

25 Q. Let's talk about Yehuda.



F22TSOK6

A. Bauer - direct

1 A. Yehuda was the youngest, so on the one hand he understood  
2 the least. He was a year and four months old. On the other  
3 hand, he may be the most profoundly affected of the three  
4 younger siblings. Revital immediately stopped breast-feeding,  
5 and she also didn't have much time for him. She used to be  
6 home with him. Revital at that time stopped working at the  
7 Interior of Ministry to be with the kids. So he went from a  
8 situation where he was being breast fed and with mommy all day  
9 to the point where he barely saw her. And so on the one hand,  
10 he was the youngest, so he had no idea what was going on. I'm  
11 sure he was aware there were changes going on in the household.  
12 But one thing that we noted is the boys -- children sometimes  
13 wet the bed, but usually get to a certain age where they  
14 stopped. He continues even much later, to the point that if  
15 there's a school trip -- this happened two weeks ago, he's  
16 afraid to go because he's not sure if he will wet his bed and  
17 get embarrassed, et cetera.

18 So I think the enormous change that happened to him at  
19 such a young age has had an impact on him. He does have fear,  
20 again the issue of going downtown or certain places that we  
21 would rather avoid. When we hear about people being run over  
22 or stabbed, he's extremely sensitive to hearing these kind of  
23 events, which occur in Jerusalem or have occurred recently. So  
24 we all have fear. We all have fear, yes.

25 Q. Take a look at a few words about Yehuda.

F22TSOK6

A. Bauer - direct

1 A. Again the confidence issue. He's a very bright boy and he  
2 is extremely at good school, but he has certain self doubts.  
3 At times he will psych himself out, he'll psych himself out  
4 about an exam. As the youngest, I think he had the most -- the  
5 biggest separation, the biggest change in life than the others.  
6 The others were used to playing with their aunt or having a  
7 baby-sitter. He had his whole life turned upside down.

8 MR. YALOWITZ: Your Honor, plaintiffs move as  
9 Exhibit 1263 the summaries that Mr. Bauer just identified.

10 MR. ROCHON: No objection to 1263.

11 THE COURT: They will be admitted.

12 (Plaintiff's Exhibit 1263 received in evidence)

13 Q. You mentioned the coats you were wearing. Did you bring  
14 them with you from your home?

15 A. Yes, I did.

16 MR. YALOWITZ: Why don't we -- I don't know that we  
17 can put a sticker a coat, but why don't we mark them as 1264  
18 and 1265 and move them in evidence. And so let's move them in  
19 evidence.

20 MR. ROCHON: No objection.

21 THE COURT: They will be admitted.

22 (Plaintiffs' Exhibits 1264 and 1265 received in  
23 evidence)

24 Q. So would you hold up the coats for the jury.

25 A. Certainly. This was my coat. And as you can see, there's

F22TSOK6

A. Bauer - direct

1 a burn mark here on the left side, which again, I was holding  
2 my left arm with Yehonathon's right arm. You can see the burn  
3 mark. And there's a hole here, which is where one of the  
4 screws --

5 MR. YALOWITZ: May I approach, your Honor?

6 THE COURT: Yes.

7 Q. Show us where the screw is.

8 A. This is where one of the screws came in.

9 MR. YALOWITZ: May I hand the coat to the jury, your  
10 Honor?

11 THE COURT: Yes.

12 Q. Do you have Yoni's coat as well?

13 A. Yeah, it was winter coat, and this is where the head of the  
14 screw passed in and broke the back corner of his bone.

15 MR. YALOWITZ: May I hand the coat to the jury, your  
16 Honor?

17 THE COURT: Yes.

18 MR. YALOWITZ: Your Honor, I will give the members of  
19 the jury a moment.

20 Q. What are we looking at, Alan?

21 A. Shrapnel from the bombing.

22 THE COURT: Go ahead and identify that exhibit number.

23 MR. YALOWITZ: Thank you, your Honor. I have taken  
24 the screws that were in Exhibit 1140 I placed them on the ELMO.

25 Q. I'm pointing to an intact screw. Where did that come from,

F22TSOK6

A. Bauer - direct

1 Alan?

2 A. That was taken out of my left arm during six hours of  
3 surgery.

4 Q. This Phillips head has been separated from the body of the  
5 screw. Where did that come from?

6 A. That was taken out of Yehonathon's brain during surgery to  
7 remove it. That piece passed fully through his brain,  
8 literally broke the back bone. He still is missing some hair  
9 in the back. He cuts his hair to cover over the hole, but it  
10 was taken out of the front.

11 Q. Where did this piece come from?

12 A. That piece actually came out of the washing machine. One  
13 of the gruesome things of the business is that the hospital  
14 returns the blood-soaked clothes. So my wife, she couldn't  
15 deal with that. So my sister-in-law washed the clothes,  
16 including these two coats. And when she did Yehonathon's  
17 clothes, she heard metal bouncing around the washing machine.  
18 So that piece came out. It seems to fit together nicely with  
19 the head -- I can't prove they came together, but we have a  
20 feeling that, with God's mercy, the screw blew up in the first  
21 milliseconds of the explosion, and I don't want to say only the  
22 head went in, but the whole screw didn't go in. So that piece  
23 came out of his coat.

24 MR. YALOWITZ: I don't have anything further on  
25 direct.

F22TSOK6

1 THE COURT: Any questions?

2 MR. ROCHON: No, sir, thank you.

3 THE COURT: Ladies and gentlemen, we'll take a short  
4 break and then continue.

5 Don't discuss the case. Keep on open mind, and I'll  
6 see you in ten minutes.

7 (Jury not present).

8 THE COURT: We'll take ten minutes.

9 (Recess taken)

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F228SOK7

R. Bauer - direct

(Jury not present)

THE COURT: Mr. Yalowitz, you have two more witnesses?

MR. YALOWITZ: Yes, sir, we do. I think we will be done by 5, maybe a little after, but if we can get the whole family done, even if we go a little past 5. He took a little longer. He was a little more talkative.

THE COURT: We can get the jury and we will finish up.

MR. YALOWITZ: Our next witness will require Hebrew translation. I don't know if you want to say something to the jury.

THE COURT: They are used to it.

(Continued on next page)

F228SOK7

R. Bauer - direct

1 (Jury present)

2 THE COURT: Mr. Yalowitz.

3 MR. YALOWITZ: Plaintiffs' next witness is Revital  
4 Bauer and my colleague, Ms. Weiser, will be leading the direct.

5 THE COURT: We are going to use the Hebrew  
6 interpreter?

7 MR. YALOWITZ: Yes, sir. We will need the  
8 interpreters as well.

9 THE COURT: Just make sure they are all set up. I  
10 know there were some technical difficulties.

11 MR. YALOWITZ: I think that the court reporters got  
12 out ahead of us this time.

13 REVITAL BAUER,  
14 called as a witness by the Plaintiffs, having been duly  
15 sworn, testified as follows through a Hebrew interpreter:

16 DIRECT EXAMINATION

17 BY MS. WEISER:

18 Q. Good afternoon, Revital.

19 A. Good afternoon.

20 Q. Revital, where were you born?

21 A. In Jerusalem.

22 Q. Jerusalem, Israel?

23 A. Yes.

24 Q. Did you grow up there?

25 A. Yes.

F228SOK7

R. Bauer - direct

1 Q. So you are not an American citizen?

2 A. That's correct.

3 Q. Is your husband an American citizen?

4 A. Yes.

5 Q. Are all four of your children American citizens?

6 A. Yes.

7 Q. Revital, we are here to talk today about the terror attack  
8 that your husband and your son were in, and I need to talk to  
9 you about how this affected your husband and your children.

10 OK?

11 A. OK.

12 Q. What month and year was the terrorist attack?

13 A. In March 2002.

14 Q. In March of 2002, were all four of your children born?

15 A. Yes.

16 Q. And your oldest is Yehonathon, right?

17 A. That's right.

18 Q. Do some people call him Yoni?

19 A. Generally, his friends call him that.

20 Q. Do you ever call him Yoni?

21 A. I never call him Yoni.

22 Q. So if I call him Yoni, you will know who I am talking  
23 about, right?

24 A. That's right.

25 Q. All right. So, Revital, let's talk about the day of the



F228SOK7

R. Bauer - direct

1 attack. Where were you?

2 A. I was home.

3 Q. What happened? When did you first learn about the attack?

4 A. Alan called me to say, we're OK, we're OK.

5 Q. Did he say anything else?

6 A. He said, they are taking care of us, don't worry, and then  
7 the line was disconnected.

8 Q. And what happened after that?

9 A. And then I tried to call hospitals, I tried to call him,  
10 and I tried to make phone calls. I turned the radio on to try  
11 and see, to hear was there a terrorist attack and what actually  
12 happened and where did they take them.

13 Q. Were your three boys home with you?

14 A. Yes.

15 Q. What was the environment in the house in those moments when  
16 you were trying to find this out?

17 A. It was kind of hysterical because I tried to see what was  
18 going on and where they were.

19 Q. Your boys saw this?

20 A. At that point in time we lived in a two-room apartment so  
21 there was no possibility of them not seeing it.

22 Q. When did you find out where Alan and Yoni were?

23 A. It took some time before a social worker called from the  
24 hospital.

25 Q. Did you go to the hospital?

F228SOK7

R. Bauer - direct

1 A. Yes. We immediately went to the hospital.

2 Q. Did someone stay home with your other boys?

3 A. My sister did.

4 Q. What happened when you got to the hospital? Who did you  
5 see first?

6 A. I saw Alan before he was taken into surgery.

7 Q. What did he look like?

8 A. He was lying in bed. He was suffering from pain. And he  
9 was suffering because of what had happened and the worry, what  
10 was happening with Yehonathon.

11 Q. What was he worried about?

12 A. What was going on with Yehonathon.

13 Q. Was he worried about his own parents?

14 A. Yes. He was afraid that he would be shown on TV and that  
15 his parents would see the pictures before he could speak with  
16 them.

17 Q. After Alan was taken into surgery, did you see Yehonathon,  
18 Yoni?

19 A. Yes. They took me to see Yehonathon before they wheeled  
20 him into surgery.

21 Q. Revital, I am just going to stop for a second. I just want  
22 to make it clear. Do you speak English?

23 A. I speak English, but sometimes I'm missing words, and  
24 therefore I prefer to speak in Hebrew.

25 Q. So we are going to continue with the translator, but let's

F228SOK7

R. Bauer - direct

1 try to wait for each other. OK?

2 A. OK.

3 Q. I'm sorry. We were talking about when you first saw  
4 Yehonathon. What did he look like?

5 A. He was lying in bed. He had a thing like that around his  
6 neck and a tooth had fallen out. His face was swollen and  
7 burned, and we simply did not know what his condition was.

8 Q. When you say he had something on his neck, do you mean a  
9 neck brace?

10 A. Yes.

11 Q. Did you stay with him? Did you go back to Alan? What did  
12 you do next?

13 A. They took me away right away because they said that they  
14 had to take him into surgery.

15 Q. Did you wait in the waiting room? Did you go back to see  
16 Alan? What did you do next?

17 A. I was actually going back and forth between the two  
18 operating rooms to see Alan when he came out and Yehonathon  
19 when he came out.

20 Q. At that point, did you know what Yehonathon's injuries  
21 were?

22 A. We had absolutely no idea, and at that point the doctors  
23 did not know either.

24 Q. How long was Alan's surgery?

25 A. Six hours.

F228SOK7

R. Bauer - direct

1 Q. How long was Yoni's surgery?

2 A. I think that it took something like an hour, something like  
3 that.

4 Q. OK. So while Alan was still in surgery, what happened when  
5 Yoni came out of surgery?

6 A. All of a sudden I saw that they were wheeling Yehonathon  
7 out of the operating room, and I chased them to see where they  
8 were taking him.

9 Q. Where were they taking him?

10 A. They took him to the pediatric intensive care unit.

11 Q. What did he look like?

12 A. His head was all bandaged and there were tubes coming out  
13 of his brain.

14 Q. What was his condition at that point?

15 A. They still could not tell us what was going on. They just  
16 intubated him in order to reduce the pressure on his brain.

17 Q. Revital, let's talk about Alan to start. OK?

18 A. OK.

19 Q. What were his injuries?

20 A. Two screws penetrated his hand, one penetrated it and  
21 exited and the other one remained.

22 Q. What did they do during the surgery?

23 A. They removed the screw and they transplanted skin from his  
24 leg.

25 Q. When he woke up from the surgery was he in pain?

F228SOK7

R. Bauer - direct

1 A. Yes.

2 Q. How long was he in the hospital?

3 A. Something like ten days.

4 Q. How did he spend those days in the hospital?

5 A. First of all, it was very difficult for him with his own  
6 injuries, but he also had a very hard time with Yehonathon's  
7 injuries.

8 Q. So give us an idea of what his days were like when he was  
9 in the hospital recuperating from his own surgery and caring  
10 for Yehonathon.

11 A. He wanted to only deal with Yehonathon the whole time even  
12 though he was not mobile.

13 Q. Take us back for one second, Revital, to the first time you  
14 took Alan to see Yehonathon.

15 A. He was extremely afraid. On the one hand he wanted to see  
16 Yehonathon, but on the other hand he didn't want to see him.

17 Q. Why didn't he want to see him?

18 A. He was simply afraid.

19 Q. What was his reaction when he did see him?

20 A. He sobbed, he sobbed, and somehow, somewhere he convinced  
21 himself that all of this happened because of him.

22 Q. What do you mean?

23 A. Because Yehonathon had been with him. So he felt that it  
24 was because of him that it had happened, that he took him with  
25 him and that it happened because of him.

F228SOK7

R. Bauer - direct

1 Q. Revital, why was Yehonathon with Alan that day?

2 A. Yehonathon had a sore throat and it was the first day of  
3 his vacation from school, and he simply took him to the doctor  
4 and after that he took him with him to work.

5 Q. So where were they going when they were in the terror  
6 attack?

7 A. They were on their way home from work.

8 Q. How was Alan's recovery after he was released from the  
9 hospital?

10 A. It was while we were running back and forth to Yehonathon,  
11 and here he thought that now he would be able to be with me and  
12 be of help to me.

13 Q. Did he continue to need help himself because of his own  
14 injuries?

15 A. His hand, in effect, was all bandaged. He was only able to  
16 use one hand.

17 Q. Did he continue to have pain?

18 A. Yes, but he really didn't heed his pain.

19 Q. Other than the guilt that Alan felt, were there any other  
20 emotional effects on him?

21 A. I think that in the beginning it was hard for him to sleep.  
22 Years later, every time that there was a terrorist attack, we  
23 felt -- he felt it as if everything was coming back to him. He  
24 wouldn't go to the open-air market to shop for food. He would  
25 not go downtown. Every time that there was an attack -- every

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R. Bauer - direct

1 time that a bus would pass by, he would distance himself from  
2 the bus.

3 Q. Let's talk about the rest of the family.

4 Tell us what your family was like before this terror  
5 attack.

6 A. A normal family. Thank God we were happy.

7 Q. What was Yoni's role in the family as the oldest boy?

8 A. Yehonathon, ever since he was little, he was a very  
9 independent kid, very -- he always loved the things that the  
10 grownups were doing. And when he got older, he liked to play,  
11 he liked to draw, he went to drawing class. He liked to help  
12 me to bake challah bread. He liked to play with his Legos.

13 Q. What his relationship like with his brothers?

14 A. He was really the oldest brother. He in effect was the  
15 leader.

16 Q. All right. So the terror attack happened just before a  
17 major holiday. Which holiday was that?

18 A. Passover.

19 Q. What is the importance of Passover to your family?

20 A. Passover is a holiday that we prepare for for something  
21 like two months in advance, and the kids' vacations start  
22 something like a week before Passover.

23 Passover, in effect, is a children's holiday. It's a  
24 holiday that is intended to teach the kids. That was actually  
25 the first time that we were going to all leave home and go to

F228SOK7

R. Bauer - direct

1 family.

2 Q. What happened to your plans?

3 A. Because everything changed and Alan and Yehonathon had been  
4 injured, I decided not to change anything for the children and  
5 to remain at home.

6 Q. How did the terror attack, in general, affect your boys as  
7 a group? And then we will talk about them individually.

8 A. There were many things that Yehonathon could not do so  
9 those are things that we just decided that we wouldn't do  
10 anymore.

11 Q. Can you give an example?

12 A. To go out on hikes, to take walks, to do things that were  
13 hard for Yehonathon to do and we didn't want to hurt him.

14 Q. What was the effect of you and Alan needing to be with  
15 Yehonathon all the time?

16 A. Simply, we almost never saw one another because always one  
17 of us wanted to be in the hospital with Yehonathon and not to  
18 leave him by himself.

19 Q. What about the boys, how did it affect their time with  
20 their parents?

21 A. First of all, the family just separated, it split up.  
22 During that holiday, which is a holiday -- it's in the spring  
23 and families travel a lot. We simply stayed home. We could  
24 not go anywhere.

25 Q. Did you bring the boys to see Yoni in the hospital?



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R. Bauer - direct

1 A. Only after the burn on his face more or less had healed.

2 Q. How long was that, from the time of the terror attack until  
3 the boys saw their brother?

4 A. I think that it was something like a week or ten days.

5 Q. What was their reaction when they saw him?

6 A. They were pretty fearful in the beginning.

7 Q. How did Yoni's injuries affect the dynamic among the  
8 brothers?

9 A. Yehonathon took several steps back, and he in effect wanted  
10 Binyamin to lead his brothers.

11 Q. What was the effect on Benjamin, Benjy, Binyamin -- we are  
12 using a lot of names for the same person -- the second one, the  
13 one right under Yehonathon, what was the effect on him?

14 A. Actually, Binyamin is a very quiet child, and it didn't  
15 really suit him to take responsibility because he is very  
16 responsible and he would get very stressed, and it was not easy  
17 for Benjamin to take Yehonathon's place.

18 Q. What did being responsible or taking Yoni's place mean for  
19 him?

20 A. He felt that he had to -- actually, all of the kids,  
21 Benjamin and Daniel, they simply took a step back and they  
22 understood that there was no alternative but to take care of  
23 Yehonathon now.

24 Q. Did they worry about him?

25 A. Very much so.

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R. Bauer - direct

1 Q. Did do they still worry about him?

2 A. Yes.

3 Q. Were there any other effects -- do you need a minute?

4 A. I'm fine.

5 Q. Revital, we were talking about your second son Binyamin, or  
6 we have all been calling him Benjy. Were there any other  
7 effects on him as a result of the terror attack that his  
8 brother and father were in?

9 A. I could say that he is pretty anxious, and if there is a  
10 terrorist attack, then he calls right away to find out, did we  
11 hear about it and is everyone all right.

12 Q. After the attack, did he become more quiet or introverted?

13 A. Yes.

14 Q. Is he scared of things other than terror attacks?

15 A. Yes. I once found a note that he had written. He wrote,  
16 God, please protect my father, protect my mom, protect  
17 Yehonathon, protect Daniel, and protect Yehuda.

18 Q. Do you know how old he was when he wrote that?

19 A. I think that he was 9 years old.

20 Q. Is he very attached to you?

21 A. Yes.

22 Q. Revital, let's talk about your next son, Daniel.

23 Before that, let me just ask you, did I forget  
24 anything, is there anything else about Benjy that you didn't  
25 mention to the jury about the effects of the terror attack?

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R. Bauer - direct

1 A. Actually, Benjamin really wanted -- there were a few things  
2 that we needed to take care of, like his eyesight. We really  
3 wanted him to take guitar lessons, and I feel like we missed  
4 out on his young childhood in terms of starting to learn  
5 musical instruments.

6 Q. Was that something he was interested in?

7 A. Yes.

8 Q. Revital, Daniel, your third son, how old was he at the time  
9 of the terror attack?

10 A. He was four.

11 Q. What effect did the terror attack have on him?

12 A. He was also frightened. We could see that he started to be  
13 very fearful. And, also, we didn't have time to take care of  
14 him the way that we needed to take care of him.

15 Q. Do you see any effects of this today?

16 A. In effect, all of the attention for everybody moved over to  
17 Yehonathon, and sometimes we see that he is missing that  
18 attention, he seeks attention.

19 Q. Anything else you see today about Daniel as a result of the  
20 terror attack?

21 A. He had some difficulties in school.

22 Q. Anything else?

23 A. No.

24 Q. Let's talk about Yehuda. Yehuda is your youngest. How old  
25 was he?

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R. Bauer - direct

1 A. He was almost a year and a half old.

2 Q. Let's start with at the time of the attack. What effect  
3 did the terror attack have on Yehuda at that time?

4 A. Yehuda had been with me up to that point 24 hours a day,  
5 and he nursed at that period of time, and that day all of a  
6 sudden I left him for a long period of time.

7 Q. Do you see any effect of the terror attack on Yehuda today?

8 A. Yehuda too, when there are terrorist attacks, right away he  
9 calls to ask if everything is OK, if everybody is all right.  
10 In addition to that, he wet his bed until a very mature age.

11 Q. Revital, let's focus now on Yoni. OK?

12 After he first woke up -- let me back up. After he  
13 came out of surgery, how long until he woke up?

14 A. Something like a week I think.

15 Q. Was he sedated during that time?

16 A. He was sedated and on a respirator.

17 Q. Did they try to wake him up?

18 A. After three days they tried to wake him up.

19 Q. What happened?

20 A. He simply was suffering from pain so they put him back to  
21 sleep; they sedated him again.

22 Q. What happened when they tried to wake him the second time?

23 A. He tried to pull the shunts out.

24 Q. But he did finally wake up, you said, about a little over a  
25 week later?

F228SOK7

R. Bauer - direct

1 A. Yes.

2 Q. What was he like when he woke up?

3 A. He had a great deal of pain and he could hardly speak. He  
4 couldn't see and he could barely move his own body.

5 Q. What was the effect of this on Alan?

6 A. It was extremely hard for him to see this. The doctors  
7 couldn't say what his condition would be once he woke up.

8 Q. Tell us about the days and weeks after he woke up. Start  
9 with the left side of his body.

10 A. He could move his leg just a little, little bit. He  
11 couldn't move his hand almost at all. He couldn't see. It was  
12 very hard for him to talk because of all the medication and the  
13 sedation that he had received.

14 Q. Was he in pain?

15 A. Very much so.

16 Q. What was happening with the shunt in his brain?

17 A. So first he tried to pull them out. And then they tied his  
18 right hand to the bed. And once the shunt clogged up so they  
19 took him to the OR in order to reopen it.

20 Q. Did they have to do CAT scans on him periodically?

21 A. What happened was that there were several times that he was  
22 experiencing terrible headaches. So they simply didn't know  
23 what it was coming from. So they ran with him to do CAT scans.

24 Q. How long was he in the ICU?

25 A. A month plus, two months.

F228SOK7

R. Bauer - direct

1 Q. Where did he go after that?

2 A. So they moved us to the pediatric floor for two days, and  
3 then they transferred us to Alyn Hospital for rehabilitation.

4 Q. What kinds of rehabilitation did he have at Alyn Hospital?

5 A. Occupational therapy, physiotherapy, hydrotherapy, speech  
6 therapy, and a psychologist.

7 Q. How long was he in Alyn?

8 A. We were there for two months on an inpatient basis. And  
9 then for more than a year we would come there every day, later  
10 on it changed to three days a week.

11 Q. How long in total did Yoni require therapy?

12 A. Intensive therapy, for something like a year and a half.  
13 Then we would come in for follow-up visits.

14 Q. Did there come a time where he didn't want to do therapy  
15 anymore?

16 A. In essence, from the very beginning the therapy was  
17 difficult for him. Pretty much from the beginning he didn't  
18 want to receive therapy.

19 Q. Why not?

20 A. He was in denial about the terrorist attack.

21 Q. Did there come a time where Yehonathon needed a second  
22 surgery?

23 A. Yes. The head of the screw was stuck in his brain, and we  
24 simply had to have it removed.

25 Q. Do you remember when that was?

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R. Bauer - direct

1 A. It was something like a month and a half after the  
2 terrorist attack.

3 Q. How much school did he miss?

4 A. Something like three months.

5 Q. Did he have nightmares?

6 A. It was difficult for him to sleep. He would sigh while he  
7 was sleeping.

8 Q. What kinds of things did Yoni like to do before the terror  
9 attack? You talked about baking and building with Legos. Were  
10 there other things?

11 A. He liked to do everything that a happy child likes to do.  
12 He liked to draw. He liked to play with his Legos. He liked  
13 to play ball, to ride his bike. He liked to ride horses.

14 Q. How did he do in school before the terror attack?

15 A. He was a good student and a naughty kid.

16 Q. How about today? Let's start with his leg. How does his  
17 leg affect him in his activities today?

18 A. Like I said, he liked horseback riding, but because that  
19 was part of his therapy he didn't want to hear anything about  
20 horses. It's hard for him to go hiking with his friends.

21 Q. What about sports?

22 A. Bicycles, for example, if his brothers want to go out bike  
23 riding, he doesn't join them. If they go to play soccer, first  
24 he checks whether there are going to be other people there, and  
25 who is going to be there, whether they are people he knows. He

F228SOK7

R. Bauer - direct

1 simply doesn't want basketball too. He doesn't want people to  
2 see the way that he plays.

3 Q. Does he draw anymore?

4 A. No. Ever since the terrorist attack he didn't want to go  
5 back to his art class.

6 Q. Let's talk about his left hand. How does the weakness in  
7 his left hand affect his activities today?

8 A. His hand is pretty weak because he completely ignores it.  
9 And if he has to hold a number of things, several things, then  
10 he only holds them with his left hand. Even before we came  
11 here he took a paper plate that's very flexible, and he put a  
12 piece of cake on the paper plate, but he didn't want under any  
13 circumstances to hold it with two hands, and it all fell.

14 Q. What about his field of vision, does he still have issues  
15 with his eyes?

16 A. He has a problem with his field of vision. If there is  
17 something that's close to him on the floor, and he didn't see  
18 it before from a distance, then he trips on it and he falls.

19 Q. Do you see bruises on his body from the trips and falls?

20 A. Sometimes to this very day I see all kinds of sores on him,  
21 and I ask him, what happened to you? And he says, nothing, I  
22 just fell.

23 Q. What about emotionally, what effects did the terror attack  
24 have on Yoni mentally and emotionally?

25 A. He has a great deal of anger about what happened. It's



F228SOK7

R. Bauer - direct

1 hard for him that he has a lower degree of functioning,  
2 physically speaking.

3 Q. Does he talk about the terror attack?

4 A. Not very much.

5 Q. Does he have any scaring?

6 A. He has a scar from the top of his head to his ear, which is  
7 pretty prominent. He has scars on his back from the screws  
8 that were part of the explosives. His left hand is curled up.  
9 His elbow isn't straight, one can see that he had been hurt.

10 Q. Revital, does it change anything for your family that these  
11 injuries to Yehonathon and Alan were caused by a terror attack  
12 rather than an accident let's say?

13 A. Somebody wanted to kill us. Somebody wanted to kill my  
14 family. Somebody wanted to kill a 7-year-old child. Alan saw  
15 the terrorist and the terrorist certainly saw Yehonathon. And  
16 he saw a 7-year-old child, and he saw that he was going to kill  
17 or to injure a little boy, a 7-year-old child.

18 Q. Revital, in this experience, what were the lowest lows for  
19 your family?

20 A. In effect, all of it was difficult for us. But the thing  
21 that was really, really most painful for me was when Yehonathon  
22 came and asked me, Mommy, who will want to marry me?

23 Q. Did Alan know that?

24 A. I only told him later on.

25 Q. How did it affect him?

F228SOK7

R. Bauer - direct

1 A. It was extremely painful for him, and it's still painful  
2 for him.

3 Q. Thank you, Revital.

4 MS. WEISER: I have no further questions, your Honor.

5 THE COURT: Did you have any questions for this  
6 witness?

7 MR. ROCHON: No, sir. Thank you.

8 THE COURT: You can step down.

9 (Witness excused)

10 THE COURT: Let's adjourn for the day.

11 MS. WEISER: We have one more witness. He is probably  
12 10 or 15 minutes, and he is here. Would it be OK if we impose  
13 upon the jury to take 15 minutes from them so he doesn't have  
14 to come back tomorrow?

15 THE COURT: Yes.

16 MS. WEISER: I thank all of you.

17 THE COURT: Ladies and gentlemen, let's try to do this  
18 quickly. I think we are ahead of schedule. I think this may  
19 keep us ahead of schedule. So I am going to ask you to indulge  
20 us for 10, 15 minutes, no more than that.

21 Why don't you call your next witness.

22 (Continued on next page)

F22TSOK8

Y. Bauer - direct

1 MS. WEISER: Your Honor, plaintiffs call Yehonathon  
2 Bauer.

3 YEHOONATHON BAUER,

4 called as a witness by the Plaintiffs,

5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. WEISER:

8 Q. Yoni, where were you born?

9 A. Jerusalem, and grew up in Jerusalem.

10 Q. Yoni, do you speak English?

11 A. Yeah, I speak not well, but I speak.

12 Q. We have a translator here for you if there are any words  
13 that you need help with. Okay?

14 A. Okay.

15 Q. Are you an American citizen?

16 A. Yes, I am.

17 Q. How old were you on the day that you were in a terror  
18 attack?

19 A. I was seven years old.

20 Q. How old are you today?

21 A. Almost 20. In March I'm going to be 20.

22 Q. Do you remember anything about that day?

23 A. I remember that I was with my father, and my father had lab  
24 downtown, and we was there. I was on vacation. And I just  
25 remember before we leave the lab, and after that I don't

F22TSOK8

Bauer - direct

1 remember nothing.

2 Q. What's the first thing you do remember after the terror  
3 attack?

4 A. I woke up in hospital. It was three weeks after the bomb  
5 attack and I didn't see nothing.

6 Q. Do you remember feeling pain?

7 A. The only thing I remember that I can't talk, so it was a  
8 pain.

9 Q. Did it scare you?

10 A. Yeah.

11 Q. Do you remember the rehab, in the rehab hospital?

12 A. Again.

13 Q. Do you remember getting rehabilitation in the rehab  
14 hospital in ALYN?

15 A. Yes, I remember.

16 Q. How was that for you?

17 A. It was hard and pain, it was hard, physical abilities.

18 Q. Do you remember the first time saw your brothers after the  
19 attack?

20 A. Yes, I remember that I saw them, and the first time when I  
21 was in hospital.

22 Q. How did it make you feel to see them?

23 A. It was good to see them, but it was a little bit hard.

24 THE INTERPRETER: Because of the circumstances.

25 Q. What do you mean because of the circumstances?

F22TSOK8

Bauer - direct

1 A. It was uncomfortable to meet them and --

2 THE INTERPRETER: In this situation.

3 Q. Yoni, how does the terror -- did the terror attack affect  
4 you in terms of the way you are today? And let's start with  
5 your leg.

6 THE INTERPRETER: I have a limp in my foot, in my leg.

7 A. So it's uncomfortable and it's hard. It's hard to do a  
8 thing like running, even walking it's hard.

9 Q. Has it affected your ability to do anything that you enjoy  
10 doing?

11 A. It's more hard for me to play soccer, to do everything that  
12 I need my leg.

13 Q. What about your arm, your hand, what is the injury?

14 A. I don't have 100 percent control of my hand, and it's not  
15 giving me to do things like -- everything that I need both  
16 hands, like to tie my shoelaces, to play basketball, to do  
17 everything that I need my both hands, even drive a car, that I  
18 need my both hands.

19 Q. Do you drive right now?

20 A. No.

21 Q. Can you show the jury your hand.

22 Is that how you hold your hand on a normal basis?

23 A. Yeah, most of time.

24 Q. Are you able to open your fingers?

25 A. Yes.

F22TSOK8

Bauer - direct

1 Q. Can you hold them like that?

2 A. Yeah, but it's uncomfortable.

3 Q. Yoni, how did the attack affect your vision?

4 A. I have problem in my field of vision of the left eye, I  
5 can't see like the right eye.

6 Q. How does that affect you?

7 A. In the past I was -- sometimes I was bang into things and  
8 sometimes I fell, but today it's not happened so much, just I  
9 can't see like the right eye.

10 Q. Yoni, do all boys your age have an interview with the army  
11 in Israel?

12 A. Yes.

13 Q. Do you have an interview scheduled?

14 A. Yeah, I have.

15 Q. What do you think is going to happen?

16 A. Oh, they're not going to take me because of my injury. I  
17 was interviewed like everyone have, but they're not going to  
18 take me.

19 Q. How does that make you feel?

20 A. Of course it's giving me a bad feeling that I not like the  
21 others, like everyone.

22 Q. Yoni, are you going to go to Harvard like your father?

23 A. I don't think so.

24 Q. Do you have any fears about how this is going to affect  
25 your future?

F22TSOK8

Bauer - direct

1 A. I'm sure that it's going to be hard for me to accept to  
2 working place.

3 Q. Why do you think that?

4 A. First, because a lot of things I not can do, I not can do  
5 surgery or doctor, things that you need your both hands. And  
6 even places that you don't need to use your left hand, they're  
7 not going to take a -- they would prefer one that is like left  
8 hand are okay and looks good.

9 Q. Does anything else worry you about your future?

10 A. Because it's before I got married, so I'm sure it's going  
11 to be hard, a lot of womans, most of the womans and girls are  
12 not going to want husband that his leg and his hand not have  
13 the right ability.

14 MS. WEISER: Thank you, Yoni, I have nothing further.

15 THE COURT: Any questions?

16 MR. ROCHON: No, your Honor.

17 THE COURT: Ladies and gentlemen, we're going to  
18 adjourn for the day. I thank you for your indulgence. At this  
19 point think we're going to finish all the witnesses within the  
20 next two or three weeks, so I will keep us on that schedule and  
21 maybe even advance that a little bit if I can. But I will keep  
22 us on the schedule that I promised, that next week we'll have  
23 Thursday and Friday off and President's Day off.

24 Don't discuss the case. Keep an open mind. I think  
25 if we move through a number of witnesses this week we should

F22TSOK8

1 stay on schedule or even further ahead of schedule.

2 Have a good evening. I will see you tomorrow at you  
3 9:45.

4 (Jury not present)

5 THE COURT: Is it tomorrow that you said you might not  
6 use the whole day?

7 MR. YALOWITZ: I think we probably will not be able to  
8 because of the blizzard in Chicago, but I don't think that  
9 we'll have finishing by Friday.

10 THE COURT: Then let's start tomorrow morning at 9:45.  
11 Have a good evening.

12 (Adjourned to February 3, 2015 at 9:45 a.m.)  
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F22TSOK8

## PLAINTIFF EXHIBITS

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